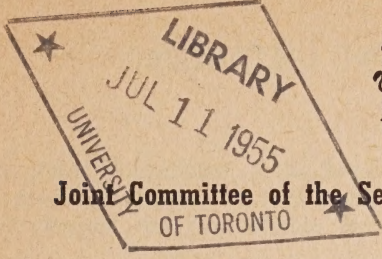


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Canada, Capital and Corporal Punishment and
Lotteries, Joint Committee of the Senate and
the House of Commons on

SECOND SESSION—TWENTY-SECOND PARLIAMENT
1955



Joint Committee of the Senate and the House of Commons
ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 20

THURSDAY, MAY 26, 1955
WEDNESDAY, JUNE 1, 1955
TUESDAY, JUNE 7, 1955
TUESDAY, JUNE 14, 1955

APPENDICES:

- A: Replies of Attorneys-General to 1954 Session's Questionnaires—Part I, Capital Punishment (Manitoba and New Brunswick); Part II, Corporal Punishment (Manitoba and Commissioner of Penitentiaries); Part III, Lotteries (Manitoba and Alberta); Part IV, Replies of a General Nature (Quebec and New Brunswick).
- B: Supplementary information from Justice Department—Part I, Capital Case Survey including Ticket of Leave Releases; Part II, Tables A to J of 1954 Session extended to 1920.
- C: Report by Counsel on Importation of Sweepstake Tickets.
- D: Amendments to Lotteries Sections of Criminal Code Proposed by: (1) Canadian Association of Exhibitions; (2) Pacific National Exhibition; (3) Retail Merchants Association of Canada, Inc.
- E: Statement from Professor Albert Morris of Boston University Respecting Evaluation of Capital Punishment Statutes.
- F: Findings of U.S.A. Surveys on the Death Penalty and Police Safety—Part I, by Professor Thorsten Sellin of Philadelphia; Part II, by Donald Campion, S. J. (A Companion Study to Professor Sellin's).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955.

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Hon. Muriel McQueen Fergusson	Hon. L. D. Tremblay
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Hon. Stuart S. Garson	Mr. Philippe Valois
Mr. Yves Leduc	Mr. H. E. Winch
Mr. A. R. Lusby	

A. SMALL,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met *in camera* at 11.00 a.m. The Joint Chairman, the Honourable Senator Salter A. Hayden, presided.

Present:

The Senate: The Honourable Senators Fergusson, Hayden, Hodges, McDonald, and Veniot—(5).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Lusby, Mitchell (*London*), Montgomery, Shipley (Mrs.), Thatcher, Thomas, and Winch—(13).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

The Committee considered certain proposals as to its method and procedure of summarizing its evidence and preparing its report to both Houses. The question was allowed to stand for further consideration at the next meeting.

The following recommendations of the Subcommittee on Agenda and Procedure were agreed to:

(1) To print all replies received at this session from provincial attorneys-general in reply to the questionnaires on capital and corporal punishment and lotteries sent to the provinces at the previous session including additional statistics on corporal punishment from the Commissioner of Penitentiaries (*See Appendix A*).

(2) To authorize the binding, as soon as editions are printed, of 36 sets of this year's evidence for the use of the Committee, including an additional 6 bound sets of last session's evidence;

(3) To print supplementary information and statistics from the Department of Justice extending last session's tables to include the period 1920 to 1929 and also a Capital Case Survey showing information regarding persons released on Ticket of Leave after commutation of death sentence (*See Appendix B*);

(4) To sanction the printing of a limited number of galley-proofs of the executioner's evidence for the use of Committee members and the Press Gallery due to the unavoidable delay in publication of the regular edition;

(5) To authorize the printing of 200 additional copies in English of the edition of the proceedings containing the following submissions or, alternatively, the Appendix containing same:

(a) The Death Penalty and Police Safety by Professor Thorsten Sellin (*See Part I of Appendix F*); and

(b) The State Police and the Death Penalty by Donald Campion, S. J. (*See Part II of Appendix F*).

At 12.45 p.m. the Committee adjourned to the call of the Chair.

WEDNESDAY, June 1, 1955.

The Joint Committee met again *in camera* at 4.00 p.m. this day. The Honourable Senator Salter A. Hayden, presided.

Present:

The Senate: The Honourable Senators Hayden, Hodges, and Tremblay—(3).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Valois, and Winch—(12).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

By unanimous consent, Mr. Fairey was elected to act for the day on behalf of the Joint Chairman representing the House of Commons due to his unavoidable absence.

In the absence of the Minister of Justice and the Joint Chairman representing the House of Commons, and the fact that the printed evidence for the last three hearings would shortly be available, it was agreed to defer further consideration of the question of a report until the next meeting.

At 4.30 p.m., the Committee adjourned to the call of the Chair.

TUESDAY, June 7, 1955.

The Joint Committee met again *in camera* at 4.30 p.m. this day. The Joint Chairman, Mr. Don. F. Brown, presided.

Present:

The Senate: The Honourable Senators Aseltine, Fergusson, Hayden, McDonald, and Veniot—(5).

The House of Commons: Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Fairey, Garson, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), Thatcher, Valois, and Winch—(12).

In attendance: Mr. D. G. Blair, Counsel to the Committee.

The Committee discussed the nature and extent of a final report if presented at this session. After expressions of opinion and further consideration, it was tentatively agreed to make a report of an interim nature and to recommend that a continuing Committee be established at the next session.

At 5.45 p.m., the Committee adjourned to meet again on Tuesday afternoon, June 14, 1955.

TUESDAY, June 14, 1955.

The Joint Committee met again *in camera* at 4.00 p.m. this day. Mr. Don. F. Brown, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, McDonald, and Veniot—3.

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Brantford*), Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Montgomery, Shipley (Mrs.), and Winch—10.

In attendance: Mr. D. G. Blair, Counsel to the Committee.

Due to the unavoidable absence of the Joint Chairman representing the Senate, the Honourable Senator McDonald was unanimously chosen to act for the day on his behalf.

In the absence of the Honourable Senator Hayden, it was agreed to defer discussion on the Committee's interim report for this session until the next meeting.

The Committee considered the question of an index to the evidence taken during the past two sessions. It was agreed to suggest to the Minister of Justice for his consideration that he authorize his department to arrange for the preparation during the summer recess of a topical index of all the evidence taken during the past two sessions for distribution to members of the Committee as soon as completed.

A submission entitled "A Statement setting forth some of the more important Points that one might take into Account in Evaluating the Worth of Capital Punishment Statutes" from Professor Albert Morris of Boston University was approved for inclusion in the printed evidence (*See Appendix E*).

It was also agreed that a report by Counsel to the Joint Chairmen on the importation of sweepstake tickets be included with the printed evidence (*See Appendix C*).

Proposals received from the following organizations, that had appeared before the Committee at earlier dates, suggesting amendments to the lotteries sections of the Criminal Code, were approved for inclusion in the printed evidence (*See Appendix D*):

- (1) Canadian Association of Exhibitions;
- (2) Pacific National Exhibition; and
- (3) Retail Merchants Association of Canada, Inc.

At 5.00 p.m., the Committee adjourned to meet again at 4.00 p.m., Tuesday, June 21, 1955.

A. Small,
Clerk of the Committee.

APPENDIX A

PART I—CAPITAL PUNISHMENT

Replies of Attorneys-General of Manitoba and New Brunswick to Questionnaire (*For replies received last session, see No. 18, June 15, 1954, pp. 755 et seq.*).

(*See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick.*)

Question 1—Trial

What provision is made by the province for legal aid to an accused charged with a capital offence for the purposes of his trial?

Answers—

Man.—Where a person accused of a capital offence first appears before the Magistrate without counsel he is advised that if he has no funds counsel to act for him may be obtained through the Indigent Committee of the Manitoba Law Society.

If he desires such assistance the case is remanded and counsel is then designated to act on his behalf.

Should such a person appear before the Assize Court on arraignment without counsel the presiding Judge will offer to appoint counsel for him. If the accused declines counsel he may represent himself at the hearing but if he agrees to the appointment, which is usually the case, the presiding Judge then designates a member of the Bar to act for him at his trial.

Where counsel is so appointed by the presiding Judge the Crown pays the fee for the services of such counsel and he is given all possible assistance in the matter of obtaining a copy of the evidence given at the preliminary hearing and of obtaining the necessary witnesses.

N. B.—Provision is made for legal aid by the "Poor Prisoners Defence Act," being Chapter 171, R. S. N. B., 1952, under which a person committed for trial or indicted for an offence for which the penalty is or may be death, is entitled to free aid in the preparation and conduct of his defence if the Judge before whom the prisoner is to be tried issues his certificate that it appears to him that the accused means are insufficient to enable him to obtain such aid.

The costs are limited to:

- (a) cost of copy of depositions,
- (b) a fee not exceeding \$100 for preparation of defence,
- (c) a fee not exceeding \$35.00 per day while engaged at the trial.

Question 2—Period Between Trial and Date Set for Execution

What, generally, are the conditions of confinement of the condemned prisoner during the period between the imposition of sentence of death and the day set for execution?

Answers—

Man.—A prisoner condemned to death, between the imposition of sentence and the day set for execution, is held in custody in the condemned cell apart from all other prisoners. This cell is equipped with toilet and wash basin and is approximately twelve feet by sixteen feet including the guards' corridor which is separated from the cell by a proper row of bars.

Condemned prisoners receive the same food as all other inmates and the staff, and sleep in the usual hospital-type bed. They are allowed visits from immediate relatives and may receive parcels of fruit after same have been inspected by the Deputy Superintendent of the Gaol. Radio programs and library books are supplied through the Gaol Library.

Condemned prisoners are, of course, under constant supervision of a guard for twenty-four hours each day.

N. B.—The conditions of confinement are the responsibility of the sheriff of the gaol to which the prisoner is confined, subject to the provisions of the old Criminal Code. The sheriff who last had this responsibility provided a guard twenty-four hours a day to supervise the prisoner.

Question 3—Appeal

(a) *What information is supplied to the condemned man with respect to his right of appeal?*

Answers—

Man.—A condemned prisoner usually receives appeal information from his counsel who is permitted to visit him in the condemned cell.

Where he has no counsel such information will be supplied to him by the Gaol Superintendent and the Sheriff who will make available to him the necessary forms for filing an appeal in person if he so desires.

N. B.—The responsibility of counsel acting for accused.

Question 3 (b)

What provision is made for legal aid?

Answers—

Man.—There is no provision for free legal aid on appeal in this Province. This department, however, has paid counsel for indigent appellants in capital cases.

N. B.—No provision for legal aid.

Question 3 (c)

In what circumstances does the province pay all or any of the costs of appeal?

Answers—

Man.—The Government does not pay any of the costs of appeal, other than furnishing transcripts of the evidence given at the trial.

N. B.—The Province pays no costs of appeal.

Question 3 (d)

What conditions of confinement apply during the period when the appeal is pending?

Answers—

Man.—The conditions of confinement during the period when an appeal is pending are the same as set out in the answer to Question 2 above.

N. B.—The conditions of confinement are the responsibility of the sheriff and see comments above (Q. 2).

Question 3 (e)

To what extent is assistance rendered by the province to enable the accused to appeal?

Answers—

Man.—Other than what is set out above in paragraphs (a), (b), and (c), the Province does not render any assistance to the prisoner to enable him to appeal.

N. B.—No provision is made. In the only case where counsel was assigned under the Poor Prisoners Defence Act and an appeal was taken, the Crown supplied a copy of the trial record gratis.

Question 4—Post Appeal Period

What assistance is given to the convicted man in preparing a submission to the Minister of Justice for commutation of his sentence?

Man.—Usually a condemned prisoner receives assistance from his counsel in preparing any submission which he may wish to make to the Minister of Justice for commutation of his sentence. Where, however, such a person has no counsel, the Gaol Superintendent and Sheriff are available to answer any questions he may wish to ask in that regard and will assist him so far as is possible in preparing a submission to the Minister of Justice.

N. B.—There is no provision made. This is regarded as the responsibility of his counsel.

Question 5—Hanging

(a) What procedure is followed in the prison, in relation to the condemned man, after notification is received that there will be no interference in the execution of sentence until the time of execution?

Answers—

Man.—Notification from the Department of Justice that there will be no interference in the execution of sentence is first received by the Sheriff who communicates directly with the Gaol Superintendent and the Superintendent in turn notifies the prisoner forthwith.

N. B.—The procedure followed is the responsibility of the sheriff subject to any provisions contained in the Criminal Code (*old*) as to which see sections 1064 to 1071 inclusive. Generally speaking hangings are conducted within the confines of the gaol yard concealed from the inmates as well as from the public. When notification is received that there will be no interference in the execution of sentence, the sheriff is notified and he in turn notifies the prisoner.

Question 5 (b)

Having regard to section 1066 of the Criminal Code, what persons are ordinarily present at the execution of a sentence of death and in particular are any special provisions made with regard to the presence of relatives or members of the press?

Answers—

Man.—Only persons in possession of a "pass" issued by the Sheriff are permitted to be present at the execution of a sentence of death. Usually those persons are police officers, members of the medical profession, the condemned man's spiritual advisor and members of the Press. Up to the present time no request has ever been received to permit the presence of relatives but if such a request were made it would, no doubt, be granted in proper cases.

N. B.—See answer to 5 (a).

Question 5 (c)

What provisions, if any, are made to conceal the execution from

- (i) any other inmates of the prison; and*
- (ii) the general public.*

Answers—

Man.—The condemned cell and the execution room are so located in the Provincial Gaol that they are completely sealed from view of both the other inmates of the prison and the general public.

N.B.—See answer to 5 (a).

Question 5 (d)

What practice is usually followed with regard to the administration of sedatives or drugs to the condemned man prior to execution? Under what circumstances are sedatives or drugs administered? What types or kinds of sedatives or drugs are administered?

Answers—

Man.—Approximately three hours prior to the time set for the execution the condemned man is asked if he would like a sedative. The usual request at this time is for a drink of liquor and the same is supplied and, in such cases, another drink of liquor is usually supplied approximately thirty minutes before the time set for the execution. In this Province we have not experienced a request for narcotics or any other type of sedative.

N.B.—Medical attention is provided if requested and no other arrangements are made.

Question 5 (e)

What disposition is ordinarily made of the body of the executed person in your province?

Answers—

Man.—Where the body is claimed by relatives for burial it is usually released to them for that purpose by Order-in-Council, otherwise burial takes place in the Gaol Cemetery.

N.B.—See old Criminal Code section 1071. In the last three hangings that took place in this Province, the Lieutenant-Governor in Council ordered that the body be released to the next-of-kin of the condemned.

Question 5 (f)—*What, in your experience, has been*

(i) *the longest,*

(ii) *the shortest*

time to elapse between the time when the trap was sprung and the time when the condemned man was pronounced dead?

Answers—

Man.—Death is usually pronounced within from six to ten minutes after the trap was sprung. The longest time was twelve minutes and the shortest time was five minutes.

N.B.—No information available. In the last case the sheriff advised it was "a matter of seconds".

Question 5 (g)

What procedure is followed where more than one person is sentenced to be hanged at the same time? If the executions are carried out simultaneously, what special arrangements are made for this purpose?

Answers—

Man.—Where two persons are sentenced to be hanged at the same time the executions are carried out simultaneously with the two persons being placed back to back. There is sufficient room on the trap for this purpose.

N.B.—Two prisoners were hanged at the same time standing back to back.

Question 5 (h)

With respect to hangings which have taken place in your province, in the period 1930-1953, or any portion or sampling of these years, can you advise what medical authorities have indicated to be the effective cause of death? If so, please tabulate, to the extent possible, the various effective causes of death and the number of deaths attributable to each cause?

Answers—

Man.—We have no statistics here on the effective causes of death.

N.B.—No information.

Question 5 (i)

If statistical information in relation to question 5 (h) above, is not available, can you offer an opinion as to the number or proportion of hangings in which death results from:—

- (i) a broken neck,*
- (ii) strangulation, or*
- (iii) any other cause.*

Answers—

Man.—From statements made by the Gaol Superintendent and the Gaol medical officers it appears that in all cases the effective cause of death was a broken neck, and that there have been no instances of strangulation or death from other causes.

N.B.—(Not answered)

Question 6—Place of execution.

- (a) Where are sentences of death ordinarily executed in your province?*

Answers—

Man.—All sentences of death executed in this Province are carried out in the Common Gaol for the Eastern Judicial District at Headingly in Manitoba.

N.B.—Sentences in this Province are ordinarily carried out in the gaol confines where the prisoner is held under sentence of the Court.

Question 6 (b)—

In your opinion, should any special provision be made for the execution of the sentences of death in specified institutions and, if so, what, in your view, should these special provisions be?

Answers—

Man.—In view of the answer given to (a) above, this question is not applicable in Manitoba.

N.B.—At the conclusion of the hangings in the last occasion which took place, the sheriff made a recommendation that hangings should in future be conducted in the penitentiary.

Question 7—Method of Execution

- (a) Have you any comments on the suitability of hanging as a method of executing the death sentence?*

Answers—

Man.—There has been little or no experience here with executions other than by hanging but it would appear that hanging is as humane as any other method such as electrocution, gas chamber, etc. It is only a matter of seconds from the time the condemned man enters the execution room until the trap is sprung and it is pretty well established that unconsciousness occurs almost simultaneously with the springing of the trap.

N.B.—It is considered that the method of carrying out execution by hanging is in itself a very great deterrent to crimes of this nature.

Question 7 (b)—

(b) *In your view, should any alternative method of executing the sentence of death be considered as more appropriate and suitable and, if so, what method or methods would you suggest?*

Answers—

Man.—The present method of executing the death sentence appears to be quite appropriate and suitable and I would not suggest any alternative method.

N.B.—No. The possible alternative of death in a gas chamber might not act as efficiently as a deterrent to some types of mind.

Question 8—*The Effects of the Execution of the Sentence of Death*

(a) *In your experience, what observable effect does the execution of a sentence of death have on:*

- (i) *the prison officers and employees or other persons in attendance?*
- (ii) *the other inmates of the prison?*
- (iii) *the community where the sentence of death is carried out?*

Answers—

Man.—

- (i) Prison officers and other persons in attendance do not appear to be visibly affected on witnessing an execution.
- (ii) The main population of the prison are usually rather quiet for a few days following an execution.
- (iii) It is very difficult to give the reaction of the members of the community wherein the death sentence is carried out but comments heard from time to time from certain individuals have indicated a feeling of approbation for what had been done.

N.B.—

- (i) Very unpleasant, but considered as a duty,
- (ii), (iii) A very sobering effect.

Question 8 (b)—

Have you any comments arising from the effects observed and set forth in answer to question 8 (a)?

Answers—

Man.—It would appear that prison officials and others attending a hanging have a pretty thorough knowledge of the crime which was committed and feel that they are only carrying out their duty. The other inmates of the prison appear to be visibly shaken by what has taken place and the period of quiet which usually follows a hanging is probably the result of sober reflection on their criminal way of life.

N.B.—*Answered by the above (8(a)).*

Question 9—*Extension or Limitation of Capital Punishment*

(a) *In your opinion, should capital punishment be imposed as an alternative punishment in respect of any offences which it is not now authorized in the Criminal Code and, if so, what offences.*

Answers—

Man.—The imposition of capital punishment as an alternative would destroy much of its value as a deterrent and I believe that it should be used only in extreme cases and then with certainty.

N.B. No.

Question 9 (b)

In your opinion, should the sentence of capital punishment be deleted from the Criminal Code?

Man.—No.

N.B.—No.

Question 9 (c)

If you are of the opinion that the sentence of capital punishment should be retained, would you consider

- (i) *that it should not be authorized in respect of all offences for which it is presently authorized and, if so, in respect of which offences would you consider it should be deleted?*
- (ii) *that, in respect of the offence of murder, provision should be made for an alternative punishment of life or any lesser term of imprisonment?*

Answers—

Man.—

- (i) In keeping with the answer given to (a) above and since the death sentence is so very rarely imposed in conviction for rape it might well be deleted with respect to that offence.
- (ii) No.

N.B.—

- (i) No change,
- (ii) No. Might as well take capital punishment out altogether because if an alternative was given capital punishment would never be imposed.

Question 9 (d)

If you consider that an alternative should be provided for the sentence of capital punishment, would you consider that the discretion as to sentence should be placed on the judge or the jury or that any other special provision should be made as to the exercise of this discretion?

Answers—

Man.—Should an alternative be provided for the sentence of capital punishment the discretion as to sentence should certainly be with the Judge rather than with the jury. It would be most unhappy, however, to place such an onus on one single individual, and I feel that the present provisions in this regard are most suitable.

N.B.—If an alternative were authorized, it is our view that it should be left in the discretion of the Judge rather than the Jury.

Question 10—Definition of Murder.

(a) *Should you consider that capital punishment should be retained as a sentence for a conviction of murder, would you favour any modification of the present definition of murder, whether by specifying degrees of murder or by redefining the responsibility of accessories and accomplices or in any other manner?*

Answers—

Man.—Capital punishment should be retained as a sentence for a conviction of murder and any modification of its present definition by specifying degrees would only serve to abrogate the certainty of sure and swift justice.

N.B.—An open mind. (Usually so complicated by the time the trial Judge finishes instructing the Jury they haven't much idea what it is. Would also point out that the courts themselves do not always agree).

Question 10(b)

Should you consider the redefinition of the offense of murder as desirable, have you any views as to the differentiation which might be made in the sentences provided for different degrees of murder and different participants in the offence of murder?

Answers—

Man.—In view of the answer to (a) above, this question is not applicable.

N.B.—See (a) above.

Question 10(c)

Should any special provisions be made for the sentencing of persons charged in respect of what are called.

(i) mercy killings?

(ii) suicide pacts?

Answers—

Man.—

(i) No, particularly in view of the dangers involved in defining what might be considered “mercy killings”.

(ii) No.

N.B.—See (a) above.

Question 10(d)

In addition to the other matters raised in this paragraph, have you any comments to make on what is sometimes called “constructive murder” and any suggestions to offer as to the redefinition of the crime of murder and the punishment therefor relating to this matter?

Answers—

Man.—I can see no practical difference between a person who deliberately goes out to kill and another who deliberately goes out to do an unlawful act well knowing that death may ensue even though he may hope that it does not. Accordingly, I feel that there should be no distinction between murder as presently defined and so-called “constructive murders”.

N.B.—See (a) above.

Question 11—Young Persons and Females.

(a) In your opinion, should the death sentence be imposed upon young offenders?

Answers—

Man.—Yes, having regard for the clemency which is exercised in proper cases by the Minister of Justice.

N.B.—Should not be imposed on anyone under 20 years of age.

Question 11(b)—

Would you consider that the Criminal Code should specify a minimum age for the application of the sentence and, if so, what age would you consider appropriate?

Answers—

Man.—Yes, if a suitable age can be determined in years. After all, one child of fourteen may be much more developed than another at sixteen and there is the difficulty of fixing a certain particular age, possibly fifteen years might be applicable.

N.B.—See (a) above.

Question 11 (c)—

In your opinion, is it desirable to impose capital punishment on females?

Answers—

Man.—Yes.

N.B.—See (a) above.

Question 11 (d)—

Have you any comments of a general nature on the question of the imposition of sentences of death on young persons and females?

Man.—Many of today's serious crimes are committed by young persons under the age of twenty-one years and there does not appear to be any reason why these young persons should not be subject to the same punishment as others, and I consider the same to be true with respect to female offenders.

N.B.—See (a) above.

Question 12—General—

(a) *Do you consider that the sentence of capital punishment operates as a deterrent in connection with*

(i) *the offence of murder?*

(ii) *other offences involving violence from which death might result?*

Answers—

Man.—The death sentence no doubt operates as a deterrent in connection with the offence of murder, but it particularly acts as a deterrent with respect to other offences involving offences in which death might result; offences such as armed robbery and robbery with violence.

N.B.—

(i) Yes.

(ii) Yes.

Question 12 (b)—

Would you consider that the same deterrent effect might result from the imposition of any lesser sentence in respect of the offence of murder?

Answers—

Man.—No.

N.B.—No.

Question 12 (c)—

Do you consider that the retention of the mandatory sentence of capital punishment for murder affects the judgment of juries in murder trials to an observable extent and in any way interferes with the proper conviction of the persons charged with murder?

Answers—

Man.—To some degree there is no doubt that juries in deliberating on a charge of murder unconsciously have in mind the mandatory death sentence which would follow from a conviction and their considerations must be somewhat colored by it. It is extremely doubtful however that such a situation is undesirable because it can only result in juries generally being more loath to convict of such a serious crime with the result that the interests of the administration of justice are thereby best served; that is to say, that convictions are generally made only on the strongest and best of evidence.

N.B.—Yes.

Question 12 (d)—

Would you consider that either the abolition of capital punishment or the provision of alternative punishments where capital punishment is now prescribed would assist or hinder the administration of justice in your province?

Answers—

Man.—The abolition of capital punishment would probably do more to hinder the administration of justice than anything else, particularly having in mind the offences of robbery with violence and armed robbery. Undoubtedly many confirmed criminals who resort to robbery would be more inclined to use fire arms or some other form of violence if it were not for the mandatory death sentence in the event of a killing. The removal of capital punishment could be no more than an invitation to such persons to carry out their crimes with greater violence than before.

N.B.—This question hardly seems answerable in its present form. More convicted but lessening of deterrent effect.

The degree of sentence hardly affects the “administration” of justice. Have no doubt there would be more people convicted of murder if the maximum penalty were life imprisonment.

Question 13—Statistical Information—

(a) Please set out on the attached Table A, for each of the years 1930-1953, the number of culpable homicides, together with the number of cases in which charges were laid, categorizing such charges under the heading of murder, manslaughter, infanticide and other charges, if any.

(b) Please set out on the attached Table B, for each of the years 1930-1953, the number of charges of murder, together with the particulars of detentions for lunacy, acquittals, convictions for lesser offences, convictions for murder, convictions quashed on appeal, commutations and executions.

(c) Please supply whatever explanatory comment or material you may think desirable in connection with the statistics to be set forth in tables A and B.

Answers—

Man.—Please refer to Table A (*Man.*) and Table B (*Man.*) of this Part.

N.B.—Please refer to Table A (*N.B.*) and Table B (*N.B.*) of this Part.

(Note: No statistical records have been kept in New Brunswick and that province's tables A and B on homicide cases deal with murder charges only covering the ten-year period from 1943 to 1953.)

TABLE A—(MANITOBA)—CAPITAL PUNISHMENT
HOMICIDES

Year	Number of culpable homicides	Number of charges laid	Number of charges of murder	Number of charges of manslaughter	Number of charges of infanticide	Number of other charges, if any
1930.....	13	13	3	10		
1931.....	15	15	7	8		
1932.....	8	8	2	6		
1933.....	11	11	7	4		
1934.....	6	6	4	2		
1935.....	17	17	3	14		
1936.....	8	8	2	2		
1937.....	10	10	3	7		
1938.....	16	16	8	8		
1939.....	7	7	—	7		
1940.....	10	10	8	2		
1941.....	9	9	4	5		
1942.....	11	11	3	8		
1943.....	9	9	1	8		
1944.....	14	14	6	8		
1945.....	3	5	3	4		
1946.....	18	18	8	10		
1947.....	17	17	7	10		
1948.....	15	15	6	9		
1949.....	8	8	2	6		
1950.....	14	14	7	7		
1951.....	18	18	2	16		
1952.....	11	11	6	5		
1953.....	4	4	1	3		

TABLE A—(NEW BRUNSWICK)—CAPITAL PUNISHMENT

MURDER TRIALS IN NEW BRUNSWICK
1943—1953

Name of Accused	Tried Before	County	Verdict	Result of Appeal	Result of New Trial	Sentence
Capson, Donald 1st trial..... 2nd trial..... Atkinson, Harold John.....	Anglin, J..... Michaud, C. J..... Michaud, C. J.....	Westmorland..... Westmorland..... Saint John.....	Guilty..... Found unfit to stand trial by reason of insanity.	New trial ordered.	Manslaughter.....	10 years
Cossaboom, George..... Gauthier, Wilfred..... Ginn, Arthur Wesley..... Hefferman, Thomas.....	Bridges, J..... Richard, C. T..... Michaud, C. J..... Michaud, C. J.....	Saint John..... Gloucester..... Albert..... Saint John.....	Not guilty..... Manslaughter..... Manslaughter..... Guilty.....			5 years 4 years To be hanged (sentence carried out)
McLeod, George E..... Nash, John Phillip..... 1st trial..... 2nd trial..... Simpkin, John Stuart.....	Anglin, J..... Bridges, J..... Michaud, C. J..... Richards, C. D.....	Saint John..... York..... York..... Saint John.....	Not guilty..... Guilty..... Guilty.....	New trial ordered.	Manslaughter.....	3 years increased to 7 years To be hanged—commuted to life imprisonment.
Gaudet, Beatrice Margaret..... Galey, Robert..... McLean, Josephine Winnifred.....	Richards, C. D..... Richards, C. D..... LeBlanc, J.....	Saint John..... Saint John..... Saint John.....	Not guilty..... Manslaughter..... Not guilty by reason of insanity.			10 years
Blais, Joseph Anthony..... Wright, Basil Row..... Hamilton, Rufus.....	Richards, C. D..... Richard, C. T..... Michaud, C. J.....	Restigouche..... Victoria..... York.....	Manslaughter..... Guilty.....			8 years 7 years To be hanged (sentence carried out)
Hamilton, George.....	Michaud, C. J.....	York.....	Guilty.....			To be hanged (sentence carried out)

TABLE B—(MANITOBA)—CAPITAL PUNISHMENT
PARTICULARS OF MURDER CHARGES

Year	Charges of murder	Detained for lunacy	Acquittals on grounds other than insanity	Convictions for lesser offence of manslaughter, infanticide or concealment of birth under SS 951(2) and 952	Convictions and sentences of death	Convictions quashed in appeal courts	Commutations	Executions
1930.....	2	.....	1	Manslaughter 1	5	.....	.....	5
1931.....	7	.....	.....	2	1	.....	1	1
1932.....	2	.....	1	.....	1	.....	.....	3
1933.....	7	1	3	.....	3	.....	.....	3
1934.....	4	.....	.....	1	3	.....	.....	.....
1935.....	3	1	1	1	2	.....	.....	2
1936.....	2	.....	.....	.....	1	.....	.....	1
1937.....	4	1	2	.....	1	.....	.....	1
1938.....	8	.....	2	.....	6	.....	2	4
1939.....	.....	.....	.....	.....	.....	.....	.....	.....
1940.....	8	2	4	1	1	.....	1	1
1941.....	4	.....	.....	2	1	.....	.....	.....
1942.....	3	1	2	.....	1	1	.....	.....
1943.....	1	.....	1	.....	.....	.....	.....	.....
1944.....	6	.....	1	4	1	.....	.....	1
1945.....	3	.....	.....	1	2	.....	1	1
1946.....	8	.....	3	2	3	1	2	.....
1947.....	7	.....	4	1	2	.....	.....	2
1948.....	6	.....	2	1	2	.....	1	1
1949.....	2	.....	.....	1	1	.....	1	.....
1950.....	7	.....	1	.....	4	.....	.....	3
1951.....	2	.....	1	.....	4	.....	.....	1
1952.....	6	3	.....	3	1	1	.....	.....
1953.....	1	.....	1	1	.....	.....	.....	.....

TABLE "B"—(NEW BRUNSWICK)—CAPITAL PUNISHMENT

RECAPITULATION BY COUNTIES

County	Number tried	Guilty	Not guilty	Manslaughter	Unfit to stand Trial	Not guilty by Reason of insanity
Saint John.....	8	2	3	1	1	1
York.....	3	2		1		
Kent.....	Nil	2				
Carleton.....	Nil			1		
Gloucester.....	1			1		
Albert.....	1					
Madawaska.....	Nil					
Kings.....	Nil			1		
Victoria.....	1					
Charlotte.....	Nil					
Queens.....	Nil					
Sunbury.....	Nil			1		
Restigouche.....	1					
Northumberland.....	Nil			1		
Westmorland.....	1					
	16	4	3	7	1	1

APPENDIX "A"

PART II—CORPORAL PUNISHMENT

Reply of Attorney-General of Manitoba to Questionnaire, including Supplementary Statistics to Question 20 of the Commissioner of Penitentiaries (*For replies received last session, see No. 18, June 15, 1954, pp 773 et seq.*).

(*See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick.*)

*Part A.—Corporal Punishment Under The Criminal Code**Question 1.—Statistical Information*

- (a) *Please set out on the attached Table A, for each of the years 1930-1953, the number of persons convicted under the Criminal Code, who were sentenced to imprisonment in penal institutions other than penitentiaries and who, in addition, were sentenced to corporal punishment.*
- (b) *Please set out on the attached Table B, for each of the years 1930-1953, particulars of sentences of corporal punishment, execution of sentences and offenders sentenced as enumerated therein;*
- (c) *Please indicate the reasons why any sentences of corporal punishment were not executed.*

Answer—

Man.—Please see Table A (Manitoba) and Table B (Manitoba) of this Part.

Question 2—

What regulations were in force in penal institutions in your province in respect of execution of a sentence of corporal punishment?

Answer—

Man.—The regulations in force in the penal institutions in this Province in respect of the execution of a sentence of corporal punishment under the Criminal Code are those followed with respect to corporal punishment imposed for infractions of gaol discipline, particulars of which are set out in answer to Question 1 of Part B of this questionnaire.

Question 3—

What persons are ordinarily present when the punishment of whipping is executed in a provincial institution in your province and what are their functions?

Answer—

Man.—The following persons are ordinarily present when the punishment of whipping is executed in a Provincial Institution:

Gaol Superintendent—He is present to see that the sentence is duly executed and generally to direct its execution.

Three senior officials of the Institution—They are present to administer the sentence and generally to maintain order during its administration. They are also available to act as witnesses if the necessity should arise.

Medical Officer—He is, of course, present during the execution of the sentence in the interests of the health and the physical condition of the prisoner and to guard against any possibility of maltreatment.

Question 4.—

At what stage of the term of imprisonment is a sentence of corporal punishment usually executed?

Answer—

Man.—Depending on the instructions which may be contained in a Warrant of Commitment, one-half of the strokes are usually given at the expiration of one-third of the sentence and the remainder after two-thirds of the sentence has expired.

Question 5.—

What is the maximum number of strokes administered at any one session?

Answer—

Man.—Ten strokes is the maximum number which has been administered at any one session.

Question 6.—

What types of instruments are used in the respective provincial institutions and what is the physical description of each such instrument?

Answer—

The instruments used in the execution of corporal punishment are the paddle and the lash, although where administered as part of a sentence under the Criminal Code, the lash is the more common. The Code, by Section 1060, provides that unless otherwise ordered in the sentence, whipping shall be by a cat-o'-nine tails.

The paddle is a piece of leather $2\frac{1}{2}$ to 3 inches wide with perforations approximately $\frac{5}{16}$ of an inch in diameter. The leather is quite thick but flexible and the leather portion it attached to a wooden handle.

The lash is a cat-o'-nine tails which consists of nine narrow strips of leather attached to a handle.

Question 7.—

What is the procedure, in detail, that is followed in executing a sentence of corporal punishment in each of the provincial institutions and what explanation is there of any variation in procedure that may exist as between different institutions?

Answer—

Man.—The procedure followed in executing a sentence of corporal punishment is uniform in all of the insitutions in this provice and is as follows:

- (a) The prisoner is brought into the punishment room where that portion of the sentence dealing with corporal punishment is read to him from the Warrant of Commitment by the Gaol Superintendent.
- (b) The prisoner is then advised of the number of strokes that he will receive at that session.
- (c) The prisoner is medically examined by the Gaol Physician.
- (d) He is then blind-folded and his arms are strapped to a tripod.
- (e) The required number of strokes are administered.
- (f) The prisoner is examined by the Gaol Physician and returned to his cell or should medication be necessary, same is provided by the doctor.

Question 8.—

Is the inmate medically examined immediately before a sentence of corporal punishment is executed and what is the extent of that examination?

Answer—

Man.—The prisoner is medically examined immediately before a sentence of corporal punishment is executed by the Gaol Physician who makes a complete general examination with particular attention to the use of a stethoscope to ensure that he is physically able to undergo the punishment which is to be inflicted.

Question 9—

Is the inmate medically examined at any time during the course of the execution of a sentence of corporal punishment and what is the extent of that examination?

Answer—

Man.—The Gaol Physician is always present during the course of the execution of a sentence of corporal punishment and should he observe any signs which indicate that the prisoner is not fit to complete the execution of the sentence he will immediately examine the prisoner. Up to the present time, however, it has never been necessary for the Gaol Physician to intervene during the course of the execution of a sentence of corporal punishment.

Question 10—

Is the inmate medically examined after the execution of a sentence of corporal punishment and what is the extent of that examination?

Answer—

Man.—The prisoner is medically examined by the Gaol Physician after the execution of a sentence of corporal punishment with particular attention to the area involved and treatment is ordered where necessary.

Question 11—

Is any other medical examination given to the inmate in connection with the execution of a sentence of corporal punishment and, if so, at what time or times is the examination given and what is the nature thereof?

Answer—

Man.—No further medical examination is given to the prisoner except for a follow-up in those cases where some treatment was indicated by the examination at the completion of the execution of the sentence.

Should the prisoner complain of undue pain he would, of course, be again medically examined in any event.

Question 12—

To what extent are inmates examined by psychiatrists before a sentence of corporal punishment is executed upon them?

Answer—

Man.—Inmates are not examined by a psychiatrist prior to the execution of a sentence of corporal punishment except in those cases where the Gaol Physician's examination indicates that the inmate's condition is such that he should be examined by a psychiatrist. There is no examination by a psychiatrist as a matter of course.

Question 13—

Where, before corporal punishment is scheduled to be inflicted, the medical opinion is to the effect that the inmate is physically incapable of enduring the punishment or the psychiatric opinion is to the effect that to inflict the punishment would serve no useful purpose, is it the practice of the Governor of the

Gaol or the Attorney General of the Province to send the opinion to the Remission Service of the Department of Justice with comments on the question whether the sentence of corporal punishment should be remitted?

Answer—

Man.—Where the medical officer is of the opinion that the inmate is physically incapable of enduring the punishment he immediately notifies the Gaol Superintendent who in turn notifies the Sheriff and he, through the Attorney General of the Province immediately communicates the information to the Department of Justice with a view to remission of that part of the sentence.

Question 14—

In the administration of justice within the province has the Attorney General issued any instruction to Crown prosecutors that, as a matter of policy, corporal punishment should not be sought in the case of first offenders or young offenders or any other class of offenders?

Answer—

Man.—No, the matter of the imposition of such punishment is left in the discretion of the trial judge.

Question 15—

Has the Attorney General, as a matter of policy, instructed Crown attorneys that they should, as a matter of policy, seek the imposition of corporal punishment in respect of any of the following offences: ss. 80, 204, 206, 276, 292, 293, 299, 300, 301, 302, 446, 447? If so, under what circumstances are Crown attorneys instructed to seek the imposition of corporal punishment?

Answer—

Man.—No.

Question 16—

In your opinion, does the Criminal Code now authorize the imposition of corporal punishment for any offence, in respect of which you consider that corporal punishment should not be authorized?

Answer—

Man.—No.

Question 17—

In your opinion, are there any offences in the Criminal Code for which the imposition of corporal punishment should be authorized and, in respect of which, it is not now authorized?

Answer—

Man.—No.

Question 18—

In your opinion, is it advisable to delete corporal punishment for the offences enumerated in ss. 80, 206 and 292 of the present Criminal Code, as proposed in the revision now (1954) before the House of Commons in Bill No. 7?

Answer—

Man.—There would be no particular objection except on principle to the deletion of corporal punishment for the offences enumerated in Section 80 but

it should be retained with respect to Sections 206 and 292 of the Criminal Code. With respect to Section 206 this is particularly true where the offence was committed with a young person.

Question 19—

Have you any comments on the use of different methods of corporal punishment, including whipping, paddling, birching or spanking and, if so, their suitability for different classes of offences and offenders?

Answer—

Man.—Whipping or paddling as presently administered is a satisfactory method of carrying out corporal punishment upon older prisoners but spanking with an ordinary strap would be much more suitable for younger offenders, particularly juveniles irrespective of the class of offence committed if the presiding judge was of the opinion that it was a proper case to do so.

Question 20—

In your opinion, does corporal punishment operate as a deterrent to (a) the young offender, (b) the recidivist, (c) the sexual offender?

Answers—

Man.—

- (a) Yes.
- (b) and (c) It is doubtful that corporal punishment operates as a deterrent to the recidivist or the sexual offender, the one being hardened to crime and the other moved by over-powering desire. It may well be, of course, that there are some in each class who are deterred to some degree by the possibility of corporal punishment and I consider it worth retaining.

Commissioner of Penitentiaries—With respect to Questions 20 to 22 inclusive, the following statistics are submitted:—

- (a) *The Young Offender*—During the period from January 1st, 1943 to December 31st, 1953, 55 youths under the age of 20 were admitted to the penitentiaries with a sentence of corporal punishment awarded by the Courts.

First offenders	34	
Recidivists	21	
		— 55

Of the 34 first offenders,

Became recidivists after having received corporal punishment	7	
No record of further sentences	24	
Still incarcerated	3	
Of the 21 recidivists, subsequently convicted	7	
No record of further sentences	10	
Still incarcerated	4	
		— 55

- (b) *The recidivist* (including recidivist young offenders and sex offenders).—During the same period 193 persons were awarded corporal punishment who had previously served sentences of imprisonment. Of these:—

Subsequently convicted again after having received corporal punishment	59	
No record of further sentences	56	
Still incarcerated	78	
		— 193

- (c) *The Sex Offender*.—During the same period 95 persons were awarded corporal punishment by the Courts in connection with a sex offence. Of these,

First offenders	76	
Recidivists	19	
		— 95

Of the 76 first offenders,

No record of further sex offences after release....	60
Subsequently convicted of further sex offence....	4
Still incarcerated	12

Of the 19 recidivists,

No record of further sex offences after release....	6	
Subsequently convicted of further sex offence....	3	
Still incarcerated	10	
		— 95

- (d) *The Adult First Offenders*.—When I appeared before this Committee on March 22, 1955, I was asked if I could produce statistics on the adult first offender similar to those which appear at pages 781-2 of the 1954 proceedings on young offenders, recidivists and sex offenders (as printed in (a), (b) and (c) above).

We have compiled the following statistics on adult first offenders; i.e., those 20 years and over who had never previously been incarcerated:

No. of adult first offenders awarded corporal punishment by the Courts from January 1, 1943, to December 31, 1954	29
No. released as of December 31, 1954	20
No. who have subsequently been convicted of another offence	2
Still incarcerated	9

Question 21—

Have you any information, by way of statistics or otherwise, to indicate the effect of corporal punishment in relation to the question of recidivism?

Answer—

Man.—No.

Question 22—

In your opinion, does the infliction of corporal punishment upon a person who is convicted of an offence for which, under the present laws, corporal punishment may be imposed, operate as a deterrent to the offender in respect of the subsequent commission of similar offences? Alternatively, have you any views on the question whether the imposition of corporal punishment in such cases operates to embitter the offender against society more than would be the case if imprisonment only had been imposed?

Answer—

Man.—It is unlikely that the infliction of corporal punishment embitters the offender against society any more than would imprisonment. This opinion is based on the fact that from time to time convicted persons have requested some corporal punishment with a shorter term of imprisonment, and from comments made to Gaol personnel by inmates who have undergone such punishment.

While no statistics are available it is difficult to recall cases where there has been repetition of a similar offence where corporal punishment has been administered. This may be due in some degree to the fact that corporal punishment is so seldom imposed.

Question 23—

In addition to the matters raised in the above questions, have you any comments on the use of corporal punishment as an aid to administration of Justice in your province?

Answer—

Man.—The administration of justice in the Province might well be considerably facilitated by extending the powers to order spanking in the case of young offenders up to the age of 18 or 20 years, particularly with respect to persons in their early teens.

*Part B.—Corporal Punishment as a Disciplinary Measure
in Provincial Penal Institutions*

Question 1—

What regulations are in force in penal institutions in your province with respect to the use of corporal punishment as a disciplinary measure?

Answer—

Man.—Subsection (4) of Section 52 of the Official Rules and Regulations for Provincial Gaols provides as follows:

(4) Every male inmate who is convicted of an assault on an officer, mutiny, or incitement to mutiny, in addition to any punishment which may be imposed under sub-sections 1, 2 and 3 hereof, shall be liable to be paddled, provided however:

- (a) that not more than ten strokes of the paddle shall be imposed for any such offence;
- (b) that the Gaol Physician must give his written statement that the health of the inmate will not be endangered by such punishment;
- (c) that no such punishment shall be inflicted unless the same has been reviewed and confirmed by the Inspector;
- (d) that such punishment shall be administered in the presence of the Gaol Physician.

Question 2—

If no general regulations are in force, can you indicate the types of disciplinary offence in respect of which corporal punishment is ordinarily imposed?

Answer—

Man.—Not applicable in view of the answer made to Question 1.

Question 3—

Please set out in the attached Table C, for each of the years 1930-1953, the number of sentences of corporal punishment imposed for prison offences, specifying, where possible, the sentences imposed in institutions for young offenders and types of offences for which corporal punishment was imposed?

Answer—

Man.—See attached Table C (Manitoba)

Question 4—

Do the methods or procedures followed in administration of corporal punishment for prison offences differ from those employed on sentences under the Criminal Code and, if so, what are the differences?

Answer—

Man.—There is no difference in procedure followed except that for Gaol offences the paddle is always used rather than the lash.

Question 5—

In your opinion is it desirable to limit the imposition of corporal punishment to certain classes of disciplinary offences and, if so, what classes of offences?

Answer—

Man.—It seems desirable to limit the imposition of corporal punishment for Gaol offences to those set out in subsection (4) of Section 52; assault on an officer, mutiny or incitement to mutiny.

Question 6—

Where corporal punishment is inflicted for prison offences, is regard had to the opinion of psychiatrists, medical doctors or other qualified personnel as to the effect of the sentence on the offender?

Answer—

Man.—Corporal punishment is never inflicted for prison offences except with the concurrence of the Gaol Physician. The matter is not ordinarily referred to a psychiatrist except that in those cases where an offender has exhibited psychiatric tendencies, the opinion of the Provincial Psychiatrist will be obtained.

Question 7—

Have you any comments of a general nature on the employment of corporal punishment in relation to the administration of penal institutions in your province?

Answer—

Man.—None of the Guard Officers in Provincial Institutions carry weapons of any kind during their tour of duty and very little difficulty is experienced with inmates. This may well be attributed to the fact that the inmates know that for an offence of striking a Guard Officer they might be subjected to corporal punishment and are thus restrained from making any attack.

In the last eight years corporal punishment has been administered on only one occasion. The results of the imposition of corporal punishment have been grossly exaggerated by the moving picture industry and it is often thought that a prisoner is cut and bleeding after receiving corporal punishment but in my experience the skin has never been broken during the imposition of such punishment.

TABLE B—(MANITOBA)—CORPORAL PUNISHMENT
PARTICULARS OF SENTENCES OF CORPORAL PUNISHMENT, TYPES OF OFFENDER, EXECUTION OF SENTENCE.

Year	Number of sentences	Maximum number of strokes	Minimum number of strokes	Average sentence	Age of youngest offender	Number of offenders below 20	Number of first offenders	Number of sentences not executed
1930.....								
1931.....	2	10	10	18 mos	24		1	Nil
1932.....								
1933.....	2	10	10	6 mos	18	2	2	Nil
1934.....								
1935.....								
1936.....								
1937.....	1	10	10	2 yrs	28			Nil
1938.....								
1939.....								
1940.....								
1941.....								
1942.....								
1943.....								
1944.....								
1945.....								
1946.....								
1947.....								
1948.....	1	16	8 each time	2 yrs less 1 day	21		1	Nil
1949.....								
1950.....	6	10	5 each time	9 mos	18	4	5	Nil
1951.....								
1952.....								
1953.....								

TABLE C—(MANITOBA)—CORPORAL PUNISHMENT
PARTICULARS OF AWARDS OF CORPORAL PUNISHMENT FOR DISCIPLINARY OFFENCES IN PROVINCIAL PENAL INSTITUTIONS.

Year	Number of sentences	Maximum number of strokes	Minimum number of strokes	Average punishment	Number of sentences of offenders under 20	Number of sentences of first offenders	Number of offenders sentenced more than once	Examples of principal offences (Fill in Appropriate Headings)
1930.....								
1931.....								
1932.....								
1933.....								
1934.....								
1935.....								
1936.....								
1937.....								
1938.....								
1939.....								
1940.....								
1941.....								
1942.....								
1943.....								
1944.....								
1945.....								
1946.....								
1947.....								
1948.....								
1949.....	1	5	5	5 strokes				Obstruct, resist and assault Guard Officer.
1950.....								
1951.....								
1952.....								
1953.....								

APPENDIX "A"

PART III—LOTTERIES

Reply of Attorney-General of Manitoba to Questionnaire, including Recommendations of Alberta (Question 3) omitted last year (For replies received last session, see No. 18, June 15, 1954, pp. 800 et seq.).

(See also Part IV of this Appendix for replies of a general nature received at this session from Quebec and New Brunswick.)

Question 1—Statistical Information

- (a) Please set out on the attached Table A, for each of the years 1930-1953, the number of persons convicted under the enumerated paragraphs of section 236 of the Criminal Code;
- (b) If the information is available, please set out on the attached Table A, in the column provided, the number of persons convicted for keeping a common gaming house under section 229 where the conviction involved offences in the nature of lotteries described in section 236;
- (c) Please set out on the attached Table B, for each of the years 1930-1953, particulars as to the disposition of charges laid under section 236 and, if the information is available, charges under section 229 involving offences in the nature of lotteries described in section 236;
- (d) Please set out on the attached Table B, if the information is available, particulars as to the number of forfeitures under section 236 (3) and the total amounts forfeited;
- (e) Please supply whatever explanatory comment or material you may think desirable in connection with the statistics to be set forth in Tables A and B.

Answer—

Man.—

- (a) & (b) See attached Table A (Manitoba).
- (c) & (d) We have no statistics available with respect to Table B.

Question 2—Present Enforcement Policies

- (a) Has the Attorney General issued any instructions to Crown attorneys or the police with respect to the policy to be followed in the enforcement of section 236 and section 229, in so far as the latter section pertains to offences involving lotteries?
- (b) If so, what is the nature of such instructions?

Answer—

Man.—

- (a) Yes.
- (b) As a matter of policy I have instructed all Crown Attorneys and police in this Province to prosecute all cases where the available evidence discloses an offence against Sections 236 or 229 of the Criminal Code, except for the special instructions set out in paragraph (d) below.

Question 2 (c)—

If no specific instructions or directions have been issued, are you aware of any special practices which are followed by Crown attorneys or the police in your province in connection with the laying of charges concerning lotteries under sections 229 and 236?

Answer—

Man.—Not applicable.

Question 2 (d)—

Are any special policies or practices followed in respect of the laying of charges for lotteries conducted by religious, charitable, benevolent organizations or social clubs?

Answer—

Man.—In the case of lotteries conducted by religious, charitable, benevolent organizations or social clubs I have instructed the Crown Attorneys and police to gather all the evidence available and submit same to me personally for decision as to whether or not prosecution should be commenced.

Question 2 (e)—

Are any special policies or practices followed in respect of bingo games organized and held by religious, charitable, benevolent organizations or social clubs?

Answer—

Man.—The special policy as set out in (d) above is applicable to bingo games.

Question 2 (f)—

Are any special policies or practices followed in respect of the laying of charges in connection with the sale of sweepstake tickets and, if so, is any differentiation made between

- (i) *sweepstakes organized within Canada;*
- (ii) *sweepstakes organized within the province;*
- (iii) *sweepstakes organized in a foreign country?*

Answer—

Man.—There are no special policies or practices followed in respect of the laying of charges in connection with the sale of sweepstake tickets and there is no distinction with respect to sweepstakes wherever organized.

Question 2 (g)—

Are you in possession of any statistical information as to the number of lotteries conducted in your province in the years in question which were deemed to have fallen within the exceptions enumerated in:

- (i) *the proviso in respect of agricultural fairs or exhibitions contained in section 236 (1);*
- (ii) *the provisions of section 236 (5);*
- (iii) *the proviso of section 226 (1) dealing with social clubs and the use of the premises of social clubs for lotteries and games sponsored by religious and charitable organizations?*

Answer—

Man.—No, although I am aware that such lotteries have occurred from time to time under all three sub-headings of this paragraph.

Question 3—Recommendations

- (a) *In your opinion, what specific amendments should be made to the present provisions of the Criminal Code dealing with lotteries and,*

- in particular, sections 226 (1), insofar as it relates to lotteries, and 236, in order to assist in the administration of justice in your province?
- (b) In connection with any proposed amendment to the present sections of the Criminal Code, would you consider that:
- (i) any special provision should be made in respect of lotteries conducted by religious, charitable or benevolent organizations and, if so, what provisions would you recommend?
 - (ii) any special provisions should be made in respect of bingo games conducted by religious, charitable or benevolent organizations and, if so, what provisions would you recommend?
 - (iii) any special provisions should be made in respect of the sale of sweepstake tickets by organizations organized for religious, charitable or benevolent purposes, whether in Canada or foreign countries, and, if so, what provisions would you recommend?
 - (iv) any additional provisions should be made in respect of lotteries conducted at or in connection with agricultural fairs and exhibitions or other types of fairs and exhibitions and, if so, what provisions would you recommend?
 - (v) any additional provisions should be made in connection with lotteries conducted by or on the premises of social clubs, specified in the proviso to s. 226 (1) and, if so, what provisions would you recommend?
- (c) Would you consider, in particular, that any provision should be made in the Criminal Code for the exemption of lotteries conducted by religious, charitable or benevolent organizations, or at or in connection with agricultural fairs or exhibitions or other types of fairs or exhibitions or by other types of organizations, when the conduct of such lotteries has been licensed by competent provincial authority and, if so, what provisions would you recommend?
- (d) Have you any views on the question whether the Criminal Code should be amended to provide for the conduct of government operated lotteries for specified purposes and, if so, what provisions would you recommend?
- (e) If you are of the opinion that under specified circumstances government operated lotteries should be permitted, to what extent would you consider it advisable to permit the conduct of lotteries by other organizations?
- (f) Have you any comments of a general nature relating to special problems arising from the enforcement of the present sections of the Criminal Code dealing with lotteries in addition to any of the matters mentioned above, have you any suggestions as to how these problems might be obviated?

Answers—

Alta.—It is suggested that the Criminal Code be amended to legalize certain lotteries to be approved by the Attorneys General of the provinces where the proceeds are to be used for charitable or community projects. It is suggested that the Criminal Code authorize the provincial legislatures to determine the terms and conditions under which such lotteries may be authorized. (Extract from brief submitted to Special Committee on Criminal Law on Bill No. 93 at the 7th Session, 21st Parliament, in 1953).

Man.—

- (a) If the conducting of bingo and similar games are to continue as criminal offences and I think they should, then it would be most helpful in enforcing their observance if offences under Section 236 were made triable by way of summary conviction. On two occasions in this province we have prosecuted benevolent associations for conducting bingo games under Section 236. In each instance the evidence was irrefutable and in fact no attempt was made to refute it. In both cases there was an election for a trial by jury and the jury was asked to acquit because of the inoffensive nature of what had taken place and verdicts of not guilty were returned. Had the trial been before a Judge giving his decision on legal principles unquestionably verdicts of guilty would have been entered.
- (b)
 - (i) No.
 - (ii) No.
 - (iii) No.
 - (iv) No.
 - (v) No.
- (c) I would consider that lotteries generally, whether by charitable organizations or otherwise, and irrespective of where they are conducted, should be permitted only if first licensed by competent provincial authorities and that otherwise the present provisions of the Code are adequate.
- (d) I am of the opinion that the Criminal Code should be amended to provide for the conduct of government operated lotteries for certain purposes.
- (e) In the event that government operated lotteries come into existence then I do not feel it advisable to permit the conduct of lotteries by other organizations except where licensed by competent provincial authorities as set out in paragraph (c) above.
- (f) The main difficulty which arises in the enforcement of the present provisions of the Criminal Code are caused primarily by the feelings of the general public in this regard.

The average man seems desirous of chancing a small amount of money in the hope of a large return and is very apathetic towards the enforcement of the lottery provisions of the Criminal Code. The result is the constant sale of illegal lottery tickets with no control whatsoever over the manner in which the lottery is being conducted. It seems to me that if there was some small slackening of the stringent law now in force and that if controlled lotteries were permitted, the general public would be satisfied and it would be a great deal easier to carry out the prohibitions against the illegal games and lotteries which are now flourishing.

TABLE A—(MANITOBA)—LOTTERIES
CONVICTIONS UNDER S-236 AND S-229 OF THE CRIMINAL CODE

Year	236 (1) (a)	236 (1) (b)	236 (1) (bb)	236 (1) (c)	236 (1) (d)	236 (1) (e)	236 (5)	229 for offences described in 236	Total
1930.....									
1931.....									
1932.....									
1933.....									
1934.....				14				3	
1935.....		4		7				1	
1936.....	4	4		35				12	
1937.....		6		26				9	
1938.....	9	5	1	55	1	7		2	
1939.....		5		31		1		3	
1940.....		2	1	58				7	
1941.....				72				1	
1942.....		1		18				16	
1943.....		2		1				12	
1944.....								14	
1945.....		2						10	
1946.....								1	
1947.....		39		2				11	
1948.....		9		5		2		10	
1949.....		3	1	5	7	1		11	
1950.....		2		4	1	1		8	
1951.....		2		5				7	
1952.....		3		13				1	
1953.....		1		7				2	

APPENDIX "A"

PART IV—REPLIES OF A GENERAL NATURE FROM QUEBEC AND
NEW BRUNSWICK

(Note: For provincial replies received last session, refer to Appendices A, B, C and D of No. 18, June 15, 1954, pp. 755 et seq)

OFFICE OF THE PREMIER
PROVINCE OF QUEBEC

(Translation)

March 2nd, 1955.

A Small, Esq.,
Clerk of the Committee,
House of Commons,
Ottawa.

Dear Sir:

The session of our Legislature came to a close a few days ago. The implementation of new legislation and the inevitable accumulation of administrative tasks during the parliamentary session involve most absorbing work.

I have been able only today to take note of your letter dated February 14, in connection with the Joint Committee of the Senate and of the House of Commons to which you refer in your letter.

The views and feelings of the province of Quebec and of the provincial government in relation to the problems involved have been expressed clearly and on many occasions, and we are convinced that they are well known and can give rise to no doubt whatever. Believe me,

Yours sincerely,

M. L. Duplessis.

THE GOVERNMENT OF THE PROVINCE OF NEW BRUNSWICK
DEPARTMENT OF THE ATTORNEY GENERAL

Fredericton, New Brunswick,
May 20, 1955.

Mr. A. Small,
Clerk of the Joint Committee on
Capital and Corporal Punishment and Lotteries,
House of Commons,
Ottawa, Canada.

Dear Sir:

I have been instructed by the Attorney General to forward our replies to the questionnaire on Capital and Corporal Punishment and Lotteries of March 8, 1954, insofar as it is completed.

I enclose herewith two copies of a memorandum *re* Capital Punishment which was prepared in this Department on April 15, 1954. (*Ed. Note: See Part I of this Appendix for text of answers*).

As noted in the memorandum it covers only the period from 1943 to 1953. The references in the memorandum are to the old Criminal Code.

There is no record here of a sentence of corporal punishment being imposed to be carried out in a Provincial Gaol. At least no such sentence has been imposed in modern times.

Corporal Punishment has not been imposed as a disciplinary measure in Provincial Gaols and there are no regulations regarding the matter. Heretofore the gaols of the province have all been under municipal control. We are only now in the course of bringing the gaols under direct provincial supervision and regulation. It is not anticipated at this time that any provision will be made for corporal punishment as a disciplinary measure.

I regret I am not in a position to reply to the inquiries regarding lotteries except to say that the Attorney General does not favour any form of government operated lottery.

Yours faithfully,

E. B. MacLachy,
Deputy Attorney General.

APPENDIX "B"

PART I

Capital Case Survey Including Record of Persons Released on Ticket of Leave

The following tables and explanatory comment have been prepared in the Remission Service of the Department of Justice in response to the request of the 1954 Committee (appearing at page 472 of the minutes of proceedings and evidence of the 1954 Committee) for information concerning persons released on ticket of leave after commutation of death sentences.

CAPITAL CASE SURVEY

TABLE 1.

Persons convicted of murder and sentenced to death during the twenty year period 1920 to 1939 inclusive:

Number of cases in study	329
Number executed	218
Number commuted to life imprisonment	109
Number commuted to term of years	2
Total	329
Number of cases of commutation	111
Number still in prison	4
Number in mental hospital	17
Number died in prison	16
Number died in mental hospital	3
Total not released	40
Released for deportation	13
Released on Ticket of Leave	58
Total released	71

TABLE 2—CAPITAL CASE SURVEY
YEARS SERVED IN PRISON OR MENTAL HOSPITAL UP TO: TIME OF DEATH, TIME OF RELEASE OR DODATE:

Years served	Died in prison A	Died in mental hospital B	Total died in custody C	Still in prison D	Still in mental hospital E	Total still in custody F	Total not released from custody G	Released for deportation H	Released on ticket of leave I	Total released J	Grand total K
Under 1.....	2		2				2				2
Over 1 under 2.....								1		1	1
" 2 " 3.....								1		1	1
" 3 " 4.....		1	1				1	1	1 ^a	2	3
" 4 " 5.....	1		1				1				1
" 5 " 6.....								1	1 ^a	2	2
" 6 " 7.....									1 ^d	1	1
" 7 " 8.....	1		1				1				1
" 8 " 9.....									2	2	2
" 9 " 10.....	3		3				3	1		1	4
" 10 " 11.....	1	1	2				2	2 ^a	3	5	7
" 11 " 12.....	1		1				1		4	4	5
" 12 " 13.....	1		1				1	2	3 ^a	5	6
" 13 " 14.....	1		1				1	1	6 ^b	7	8
" 14 " 15.....									13 ^b	13	13
" 15 " 16.....	1		1	1			2	2	10	12	14
" 16 " 17.....				1		1	1		2	2	3
" 17 " 18.....	1		1	1		2	3	1	4	5	8
" 18 " 19.....	2		2		1		2		2	2	4
" 19 " 20.....	1		1		1 ^a	1	2		1	1	3
" 20 " 21.....					1 ^a	1	1		3	3	4
" 21 " 22.....					2	2	2		1	1	1
" 22 " 23.....					1	1	1				1
" 23 " 24.....											
" 24 " 25.....				1			1				
" 25 " 26.....											
" 26 " 27.....											
" 27 " 28.....											
" 28 " 29.....					1	1	1			1	1
" 29 " 30.....					2	2	2			2	2
" 30 " 31.....					1	1	1			1	1
" 31 " 32.....					4	4	4			4	4
" 32 " 33.....		1	1				1			1	1
" 33 " 34.....					2	2	2			2	2
" 34 " 35.....					1	1	1				1
Total.....	16	3	19	4	17	21	40	13	58	71	111

^a 1 female.^b 2 females.^c commuted to 15 years.^d commuted to 10 years.^e commuted to 5 years at time of release.

PERIOD SERVED IN PRISON UP UNTIL TIME OF RELEASE

REFER TABLE 2

The period of imprisonment required as fitting punishment for murder seems to vary greatly from country to country. In the United Kingdom persons considered fit for release on licence are usually released before ten years served. In some of the United States release from prison for persons serving life sentences for murder can only be effected by a pardon. It is not unusual for "lifers" in some states to serve well over twenty or twenty-five years before release.

In Canada the departmental rule calls for the serving of fifteen years. The attached tables however, demonstrate that in practice this a "mode" rule rather than a "minimum" rule.

Of the 71 persons covered by this study, who were released from prison (for deportation or on Ticket of Leave), 44 were released before they had served 15 years.

An analysis of the statistics indicates that the mode falls between 14 years and 16 years. 25 of the 71 were released with over 14 years and under 16 years served.

More than 5/7ths, however, ie. 52 in all, served in excess of 12 years and 27 in excess of 15 years.

The range extends from less than 1 year to 22 years served. 10 persons were released before they had served 10 years, (5 for deportation and 5 on Ticket of Leave). 3 of the persons released on Ticket of Leave had their sentences commuted in each case to a term of years (15, 10 and 5 respectively). In all cases of releases prior to 10 years served an examination of the files reveals unusually extenuating circumstances or compassionate features.

Period Served in Custody up Until Time of Death

REFER TABLE 2.

16 persons died in prison and 3 persons died in mental hospital. There appears to be no significance to draw from the period served at time of death which ranged from a few months to 32 years. 14 of the 19 inmates had served over 9 years at time of death.

Period Served to Date of Persons Still in Custody

REFER TABLE 2.

There are 21 inmates of the original 111 still in custody, of this number 17 are in mental hospitals. They have been incarcerated 17 years or more. In one case the inmate has served 34 years.

The four who still remain in prison have served 25 years, 17 years, 16 years and 15 years respectively.

CAPITAL CASE SURVEY
PERSONS RELEASED ON TICKET OF LEAVE

TABLE 3.

Age at time of conviction:

15-19	10
20-24	13
25-29	8
30-39	17
40-49	5
50-59	3
60 and over	2
Total	58

TABLE 4.

Age at time of release:

25-29	1
30-39	21
40-49	16
50-59	13
60-69	5
70 and over	2
Total	58

TABLE 5.

Physical condition at time of release:

Good	44
Fair	10
Poor	4
Total	58

TABLE 6.

Self-improvement during incarceration:

Nil	8
Satisfactory	15
Good	28
Outstanding	3
Not known	4 (a)

(a) Older cases of the 1920-29 groups—nothing on file to indicate.

Age at Time of Conviction

REFER TABLE 3.

Ten persons were under 20 at time of conviction. More than half (31) of the 58 released on Ticket of Leave were under 30 at time of conviction.

Age and Physical Condition at Time of Release

REFER TABLES 4 and 5

All but one prisoner was 30 years or older at time of release. The greater proportion (38) were released prior to age 50.

These figures are significant in two respects, viz:

(1) All but one were released after having passed through the years when greatest degree of maturation takes place.

(2) The greater proportion were released at an age when it was still possible for them to establish themselves in an earning capacity.

In the main, prisoners were released in their prime of life not as old men—

44 of the number were considered to be in good physical condition at time of release. Only 4 of the 58 were described as in poor physical condition.

Self-Improvement During Incarceration

REFER TABLE 6.

A review of the individual files indicates that by far the greater number of lifers released made worthwhile efforts at self-improvement during their period of incarceration. Early stages of the sentences were characterized by despondency and poor behaviour, but once the adjustment to prison was made the inmates' efforts were better than the average prisoner.

TABLE 7

Family or Friends' Support—

during imprisonment

Nil-poor	8
Fair	9
Good	18
Very good	12
Excellent	11

—
58
—

after release

Not known	8
Nil-poor	5
Fair	5
Good	21
Very good	8
Excellent	9
Too early to assess	2

—
58
—

TABLE 8

Supervision Arranged—
(in addition to regular
reporting to police)

Nil	26 (a)
Relative	4
Volunteer citizen	5
Rabbi-Priest-Clergyman	5
After care agency	6
Salvation Army	7
Other social agency	1
Probation Officer	1
Remission representative	3
	<hr/> 58

(a) Of this number 14 were proceeding on release to home of family or other relatives. 3 were for enlistment in armed forces. 18 of this group of 26 were released in the years 1920-29 before the present policy of making detailed arrangements for supervision was fully developed.

TABLE 9

Employment Prospects at Time of Release

Not known	1
Nil (health)	5
Nil (female to family)	2
Fair	2
Good	48
	<hr/> 58

TABLE 10

Present Employment (still on Ticket of Leave):

Skilled Labour (auto mechanic, machinist, welder, painter, butcher, etc.)	7 (a)
Semi-skilled Labour (truck driver, factory worker, clothing presser, etc.)	6
Service Trades (maid, caretaker, orderly, etc.)	5
Unskilled Labour	1
Clerical, Sales and Professional	5 (b)
Farming	4 (c)
Restaurant Operator	1 (d)
Logging	1
Unemployed	8 (f)
Unknown	2
	<hr/> 40

(a) 1 self-employed.

(b) 2 self-employed.

(c) 2 self-employed.

(d) 1 self-employed.

(f) 4 for reasons of health:

1 seasonal employment;

2 females supported by family.

TABLE 11

Employment Record Since Release—	
Still on Ticket of Leave	40
Unable to work	1
Erratic	1
Fair	4
Steady	25 (a)
Steady-gaining promotion	5 (b)
Too early to assess	2
No assessment possible	2 (c)
	<hr/> 40 <hr/>
Died While on Ticket of Leave	
Unable to work	5
Unemployed	1
Steady	5 (d)
No assessment possible	1
	<hr/> 12 <hr/>

- (a) 4 of this number self-employed.
(b) 1 of this number self-employed.
(c) 2 females returned to family on release.
(d) 3 of this number self-employed.

TABLE 12.

Period at Liberty

	At Time of Death	At Time Returned to Prison	Still on Ticket of Leave
Not known	1 (a)		
Under 3 yrs.	3	1	5
Over 3 & under 6		2	12
“ 6 “ “ 9	3		4
“ 9 “ “ 12	2		6
“ 12 “ “ 15	1		5
“ 15 “ “ 18	1		6
“ 18 “ “ 21	1		1
“ 21 “ “ 24			1
	<hr/> 12	<hr/> 3	<hr/> 40

(a) Presumed dead.

Rehabilitation

REFER TABLES, 7, 8, 9, 10, 11 and 12.

Only 3 of the 58 men and women released on Ticket of Leave have been returned to prison. One of these did commit a second homicide, was convicted of murder and executed.

Of the 55 remaining 11 are known to be dead, 1 presumed dead, 3 at liberty sentence satisfied and 40 still at liberty on life Tickets-of-Leave.

Of the 40 still on Ticket of Leave, 35 have been at liberty more than 3 years; over half of the 40 have been free for more than 6 years ranging up to 21 years and more.

Nearly all the Ticket of Leave holders are described in recent post-release reports from R.C.M.P., and social agencies as accepted, re-established and even respected citizens. The special achievements of particular individuals cannot be detailed without identification. A very small number appear to have made only a marginal adjustment.

The moral support of family, friends and official supervisor seems to have been instrumental in successful rehabilitation in many cases. In recent years provision of official supervision by a social agency has been a feature of each case.

APPENDIX "B"

PART II

Supplementary Statistics Supplied by Remission
Service, Department of Justice

On May 11, 1954, the Minister of Justice submitted statistical tables, which appear at pages 512 to 522 of the minutes of proceedings and evidence of the 1954 Committee, relating to capital cases during the period 1930-1949 and in some cases during the period 1930-1952. The more important statistical tables A to J have been extended and now include the period 1920-1929. In preparing the statistics each case has been treated as having been dealt with, by execution or commutation or by the court of appeal, as the case may be, in the same year as that in which the sentence of death was imposed. That is to say, if a sentence of death was imposed, for instance, in November of a particular year and was commuted in February of the following year, the case is treated, for the purpose of these statistics, as having been one where the sentence was imposed and commuted in the same calendar year. Other statistics that may be available to the Committee may not have been prepared on this basis.

TABLE A.

DISPOSITION OF CAPITAL CASES (1920-1949)

This table is the counterpart of Table I in Appendix 3 of the United Kingdom Royal Commission Report, at pages 298-301. "Otherwise" means otherwise disposed of by the court of appeal, i.e., by quashing the conviction and entering a verdict of not guilty or ordering a new trial or substituting a verdict for a lesser offence.

M.—Male
F.—Female

Year	Sentenced to death		Executed		Commuted		Otherwise	
	M.	F.	M.	F.	M.	F.	M.	F.
1920.....	21	2	7	0	11	2	3	0
1921.....	14	0	7	0	6	0	3	0
1922.....	25	1	11	1	8	0	5	0
1923.....	15	1	11	0	3	0	1	1
1924.....	23	1	10	0	9	1	4	0
1925.....	19	0	9	0	9	0	1	0
1926.....	10	0	6	0	2	0	2	0
1927.....	16	1	11	0	4	1	1	0
1928.....	19	0	6	0	7	0	5	0
1929.....	22	0	14	0	6	0	2	0
10 yrs.....	184	6	92	1	65	4	27	1
1930.....	23	0	13	0	5	0	5	0
1931.....	32	0	25	0	3	0	4	0
1932.....	22	1	13	0	5	0	4	1
1933.....	21	0	16	0	3	0	2	0
1934.....	23	3	11	1	4	1	8	1
1935.....	14	3	11	1	2	1	1	1
1936.....	21	1	14	0	3	1	4	0
1937.....	14	0	7	0	2	0	5	0
1938.....	18	1	8	1	8	0	2	0
1939.....	10	1	4	0	3	1	3	0
10 yrs.....	198	10	122	3	38	4	38	3
1940.....	19	2	9	0	6	0	4	2
1941.....	15	0	7	0	7	0	1	0
1942.....	12	1	6	0	1	0	5	1
1943.....	10	0	7	0	1	0	2	0
1944.....	18	0	9	0	4	0	5	0
1945.....	19	0	10	0	5	0	4	0
1946.....	24	5	12	1	7	1	5	3
1947.....	19	0	10	0	3	0	6	0
1948.....	26	0	13*	0	5	0	8	0
1949.....	29	0	11	0	6	0	12	0
10 yrs.....	191	8	94	1	45	1	52	6

* Includes one condemned person who committed suicide.

JOINT COMMITTEE

TABLE B.

PROPORTION OF EXECUTIONS (1920-1949)

This table shows the number of persons who, during the relevant period, were executed as a result of the imposition of sentence of death upon them. The number of cases disposed of by appeal courts and by commutation will be found in Tables C, D and E.

M.—Male
F.—Female
T.—Total

Period	(1)			(2)			(3)		
	Sentenced to death			Executed			(2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929.....	184	6	190	92	1	93	50	16·6	47·7
1930-1939.....	198	10	208	122	2	125	61·6	30·0	60·1
1940-1949.....	191	8	199	94*	1	95	49·2	12·5	47·7
Total.....	573	24	597	308	5	313	53·9	20·8	52·4

* Includes one condemned person who committed suicide.

TABLE C.

PROPORTION DISPOSED OF BY APPEAL COURTS (1920-1949)

This table shows the number of persons who, during the relevant period, had their convictions quashed by appeal courts and in respect of whom a verdict of not guilty was entered, a new trial ordered or another verdict substituted.

M.—Male
F.—Female
T.—Total

Period	(1)			(2)			(3)		
	Sentenced to death			Disposal by Court of Appeal			(2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929.....	184	6	190	27	1	28	14·6	16·6	14·7
1930-1939.....	198	10	208	38	3	41	19·2	30·0	19·7
1940-1949.....	191	8	199	52	6	58	27·2	75·0	29·2
Total.....	573	24	597	117	10	127	20·4	41·7	21·3

TABLE D.

PROPORTION OF COMMUTATIONS (1920-1949)

This table shows the number of persons whose sentences were, during the relevant period, commuted to sentences of life imprisonment. It is the counterpart of Table III of the United Kingdom Royal Commission Report, at page 13. This table is to be distinguished from Table E which deals *not* with all sentences of death imposed during the relevant period, but only with those that came before the Governor in Council for decision on the question of commutation.

M.—Male
F.—Female
T.—Total

Period	(1) Sentenced to death			(2) Commutated			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929.....	184	6	190	65	4	69	35.3	66.6	36.3
1930-1939.....	198	10	208	38	4	42	19.2	40.0	20.2
1940-1949.....	191	8	199	45	1	46	23.6	12.5	23.1
Total.....	573	24	597	148	9	157	25.8	37.5	26.3

TABLE E.

PROPORTION OF COMMUTATIONS (1920-1949)

This table shows the number of persons whose sentences were, during the relevant period, commuted to sentences of life imprisonment by the exercise of the royal prerogative. It is to be noted that the figures in this table do not take into account cases disposed of by appeal courts. This table relates only to cases that were dealt with by the Governor in Council.

M.—Male
F.—Female
T.—Total

Period	(1) Considered by Governor in Council			(2) Commutated			(3) (2) as a percentage of (1)		
	M.	F.	T.	M.	F.	T.	Per cent M.	Per cent F.	Per cent T.
1920-1929.....	157	5	162	65	4	69	41.4	80.0	42.5
1930-1939.....	160	7	167	38	4	42	23.7	57.1	25.2
1940-1949.....	139	2	141	45	1	46	32.4	50.0	32.6
Total.....	456	14	470	148	9	157	32.5	64.3	33.4

TABLE F.

RECOMMENDATIONS AS TO MERCY (1920-1949)

This table is the counterpart of Table I of the United Kingdom Royal Commission Report, at page 9.

M.—Male
F.—Female

Year	RECOMMENDED TO MERCY										NOT RECOMMENDED TO MERCY							
	Convicted and sentenced to death		Total		Com-muted		Exe-cuted		Disposed of by appeal court		Total		Com-muted		Exe-cuted		Disposed of by appeal court	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
1920 to 1929...	184	6	35	4	17	2	5	0	14	1	149	2	49	1	87	1	13	0
1930 to 1939...	198	10	38	4	23	3	11	0	4	1	160	6	15	1	111	3	34	2
1940 to 1949...	191	8	49	5	24	0	8	0	17	5	142	3	21	1	86	1	35	1
Total.....	573	24	122	13	64	5	24	0	35	7	451	11	85	3	284	5	82	3

TABLE G
ANALYSIS RE VICTIMS OF CONVICTED MURDERERS (1920-1952)

THIS TABLE IS THE COUNTERPART OF TABLE 4 IN APPENDIX 3 OF
THE UNITED KINGDOM ROYAL COMMISSION REPORT, AT PAGES 304-306

M.—Male
F.—Female
C.—Commutation
E.—Execution

	For murder of wife		For murder of husband		For murder of parent		For murder of sweetheart		For murder of mistress		For murder of children		Sexual Assault		Robbery		Revenge Jealousy or		Escaping Custody or arrest		For murder of policeman		Miscellaneous		Total	
	M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.			
	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.		
1920.	1	1																							20	
1921.	1	1																							13	
1922.																									20	
1923.	1	1																							14	
1924.	1	1																							20	
1925.																									18	
1926.																									8	
1927.	1	3																							16	
1928.	1																								13	
1929.																									20	
Total 10 yrs	6	6	2	1	1	1	1	1	1	3	6	3	1	1	4	21	38	1	3	17	1	2		26	16	162
1930.																									18	
1931.	1	2				2																			28	
1932.																									18	
1933.	1					1																			19	
1934.	1	1																							17	
1935.	1	1				1																			15	
1936.	2	1																							18	
1937.	1																								9	
1938.	2	1																							17	
1939.	1																								8	
Total 10 yrs	6	9	3	2	1	5		1			7		2		6	42		6	20		1	12		16	22	167

M.—Male
F.—Female
C.—Commutation
E.—Execution

TABLE G—*Concluded*
ANALYSIS RE VICTIMS OF CONVICTED MURDERERS (1920-1952)
THIS TABLE IS THE COUNTERPART OF TABLE 4 IN APPENDIX 3 OF
THE UNITED KINGDOM ROYAL COMMISSION REPORT, AT PAGES 304-306

		For murder of wife		For murder of husband		For murder of parent		For murder of sweetheart		For murder of mistress		For murder of children		Sexual Assault		Robbery		Revenge or Jealousy		Escaping Custody or arrest		For murder of policeman		Miscellaneous		Total
		M.	E.	C.	E.	M.	E.	C.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	M.	E.	
1940.....	1																									15
1941.....	1																									14
1942.....	2																									7
1943.....	1																									8
1944.....	1																									13
1945.....	1																									15
1946.....	1																									21
1947.....	1																									13
1948.....	1																									18
1949.....	1																									17
Total 10 yrs.....	3	7				2	2		3		5	3		1	14		13	39		2	1			8	16	141
Total 20 yrs.....	9	16	3	2	3	7		4		5	10		1	2	17		19	81		3	1		1	14	24	308
Total 30 yrs.....	15	22	5	3	4	8		5	1	8	16		4	2	21		40	119	1	1	16	47		1	50	470
1950.....	1																									13
1951.....	1																									13
1952.....	2	3																								18

* This condemned person committed suicide

TABLE H.

AGES OF PERSONS CONVICTED OF MURDER (1920-1952)

This table is the counterpart of Table 6 of Appendix 3 of the United Kingdom Royal Commission Report, at pages 308-9.

Year	20 yrs. and under				21-30 yrs.				31-40 yrs.				41-50 yrs.				51-60 yrs.				Over 60 yrs.				Total
	M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		M.		F.		
	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	C.	E.	
1920.....		1			4	1	1		4	1	1		1				1								15
1921.....					5	3											1								9
1922.....	2	1				1		1	1	1				2			1				1			1	12
1923.....		3				3			1																7
1924.....						3				2			1				1								7
1925.....	1	1			2	3			1	1			1												10
1926.....						1			1	1				4			1								8
1927.....	4					4				2				3							1				15
1928.....	1				2	1			3	2				2			1								12
1929.....	1	1				6			3	4			1	2		1					1				20
Total.....	9	7			13	26	1	1	15	14	1		3	14		1	5	1			2	1		1	115**
1930.....	1				2	7			1	2				3			1	1							18
1931.....					2	9				8			1	4			4								28
1932.....		1			3	5			1	3				2			1	2							18
1933.....		3			1	8			2	2				2			1								19
1934.....	1	1			2	5				2	1			2		1	1	1							17
1935.....	1				1	4	1			2				4		1		1							15
1936.....	2	1				6				4	1			2			1	1							18
1937.....	1	1				1	1			4				1											9
1938.....	1					3	2		1	4		1	2	2			1								17
1939.....					1	3			2									1			1				8
Total.....	7	7	0	0	16	50	1	0	7	31	2	1	3	22	0	2	5	11	1	0	0	1	0	0	167
1940.....	2				2	3			2	3				3											15
1941.....		1			2	4			1	1			3	1			1								14
1942.....						4								1			1					1			7
1943.....	1	1				6																			8
1944.....	2				1	7								2			1								13
1945.....	3	2				3			1					4			1	1							15
1946.....	1	1			3	8			1	2	1	1	1	1						1					21
1947.....	1	2			1	4				3				1			1								13
1948.....	4					7			1	4	*			1			1								18
1949.....	2				2	5				3			1	2			1	1							17
Total.....	16	7	0	0	11	51	0	0	6	16	1	1	5	16	0	0	6	3	0	0	1	1	0	0	141
Total 20 yrs....	23	14	0	0	27	101	1	0	13	47	3	2	8	38	0	2	11	14	1	0	1	2	0	0	308
Total 30 yrs....	32	21	0	0	40	127	2	1	28	61	4	2	11	52	0	3	16	15	1	0	3	3	0	1	423
1950.....	2				1	2				6				1			1								13
1951.....	1					5	1			2				3		1					1				14
1952.....	1				3	4			1	4				1			2				1	1			18

*Includes one condemned person who committed suicide.

**For period 1920-1929, ages of 47 persons are not known.

M.—Male.

F.—Female.

C.—Commutation.

E.—Execution.

TABLE "I"

Province	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	Total 10 yrs.
Alberta.....	C. E. 1 1	2	2	2	2	1	1 1	.....	1	..... 1	8 7
British Columbia.....	C. E. 2 1	1 1	..... 1	.....	1 1	3 2	1 2	3 2	.....	1 1	12 10
Manitoba.....	C. E. .....	.....	1	.....	1	.....	2	1	.....	1	3 6
New Brunswick.....	C. E. .....	.....	1	.....	.....	1 1	.....	.....	1	.....	2 2
Nova Scotia.....	C. E.	1	1 1	.....	1	.....	.....	1	.....	.....	1 4
Ontario.....	C. E. 4 2	1 3	5 4	2 1	1 4	2 1	..... 1	..... 1	3 2	2 2	20 21
Prince Edward Island.....	C. E. .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Quebec.....	C. E. 3 2	2 1	1 3	..... 3	4 4	2 2	.....	2 5	1 2	..... 6	15 28
Saskatchewan.....	C. E. 3 2	.....	.....	1 3	1	.....	.....	1	1 2	2 4	8 12
Yukon Territories.....	C. E.	1	.....	2	.....	.....	.....	.....	.....	.....	..... 3
Total.....	20	13	20	14	20	18	8	16	13	20	162

C.—Commutation
E.—Execution

TABLE I
CAPITAL CASES BY PROVINCES
(1920-1949)

PROVINCE	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	Total 10 yrs.	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	Total 10 yrs.	
Alberta..... C. E.	1 1	1 4	.....	.....	1 3	2 1	1 1	.....	1	.....	5 13	.....	.....	2	1	3	.....	3 6	.....	1 2	1 2	5 16
British Columbia..... C. E.	1	4	.....	.....	.....	1 2	1 2	.....	1	1	3 10	1	1	.....	1	.....	3	.....	2	.....	2	9
Manitoba..... C. E.	.....	4	1	1	3	.....	2	1	3	.....	5 15	.....	1	.....	.....	1	1	1	2	.....	2	6
New Brunswick..... C. E.	1	.....	.....	1	1	.....	2	.....	2	1	5 3	.....	.....	2	.....	1	.....	1	.....	.....	2	5
Nova Scotia..... C. E.	.....	1	1	2	1	.....	.....	1	.....	.....	3 6	2	.....	.....	.....	.....	.....	1	.....	.....	.....	3
Ontario..... C. E.	1 4	2 6	2 8	.....	1 4	2 4	.....	1 2	1 1	3 2	13 35	1 5	3	1 1	1 3	2 4	1 2	1 5	1 5	4 3	3 2	18 30
Prince Edward Island..... C. E.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	2
Quebec..... C. E.	1 5	1 4	1 3	1 3	1 4	5 35	2 1	2 4	1 1	1 3	1 1	2 1	1 6	1 3	10 23
Saskatchewan..... C. E.	2	.....	1	2	1	.....	1	.....	.....	1	3 7	.....	1	.....	.....	.....	2	.....	.....	1*	1	4
Yukon Territories..... C. E.	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
	18	28	18	19	17	15	18	9	17	8	167	15	14	7	8	13	15	21	13	18	17	141	

* Committed suicide.

C.—Commutation.

E.—Execution.

TABLE J
LENGTH OF DETENTION WHERE DEATH SENTENCE COMMUTED (1920-1939)

Year sentence commenced	Number of prisoners serving commuted sentences for life whose release was authorized on a Ticket of leave or for deportation		Number of years served																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
			1 yr.	3 yrs.	4 yrs.	5 yrs.	8 yrs.	9 yrs.	10 yrs.	11 yrs.	12 yrs.	13 yrs.	14 yrs.	15 yrs.	16 yrs.	17 yrs.	18 yrs.	20 yrs.	21 yrs.	22 yrs.	Total																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.

M.—Male
F.—Female
a.—Deportation
b.—I for Deportation

APPENDIX C

(NOTE: The following refers to the evidence adduced by Mr. Pacifique Plante on April 28, 1955, reported and commented upon in No. 15 of this year's Minutes of Proceedings and Evidence, pp. 476, 478, and 490.)

MAY 6, 1955.

The Honourable S. A. Hayden, Q.C.,
The Senate of Canada
and Mr. Don F. Brown, M.P.,
House of Commons,
Joint Chairmen,
Joint Parliamentary Committee on Capital and
Corporal Punishment and Lotteries,
Parliament Buildings,
Ottawa, Ontario.

Dear Sirs:

As directed by the Committee on May 3, 1955, I have considered the importation of sweepstake tickets and have had discussions with officials of the Departments of Finance, National Revenue and Justice. No existing law or regulation prohibits the importation of sweepstake tickets. It is presumed that sweepstake tickets now imported are entered for customs purposes simply as "printed matter".

The importation of a considerable number of goods set forth in Schedule "C" of the Customs Tariff is prohibited by Section 12 of the Customs Tariff Act, R.S.C., 1952, c. 60. The list of prohibited goods ranges from treasonable and immoral books to second-hand automobiles and includes reprints of copyrighted works and posters and hand bills depicting scenes of crime and violence. Section 12 also authorizes the forfeiture and destruction of any prohibited goods which are imported.

Should the Committee desire to recommend the prohibition of the importation of sweepstake tickets, a legislative amendment would be required. The Committee might also consider it desirable to recommend the prohibition of the importation of advertisements or plans of foreign lotteries, the publication of which, in Canada, is now prohibited by the Criminal Code.

The drafting of any amending provision would have to be undertaken by the departmental officials concerned. In my view, the simplest way of accomplishing the desired prohibitions would be to add a new section, viz, Section 1220 to Schedule "C" of the Customs Tariff. This new section would have to prohibit first, the importation of lottery or sweepstake tickets, the sale or disposal of which is prohibited by Section 179 of the Criminal Code, and second, the importation of advertisements for lotteries, the publication of which is prohibited by the same section.

Yours faithfully,

D. Gordon Blair,
Counsel to the Joint Committee on Capital
and Corporal Punishment and Lotteries.

APPENDIX D

GOWLING, MACTAVISH, OSBORNE & HENDERSON

Barristers & Solicitors

*(For Canadian Association of Exhibitions)*88 Metcalfe Street
Ottawa 4, Canada

MARCH 28th, 1955.

The Chairmen,
The Joint Committee of the Senate and
the House of Commons on Capital and
Corporal Punishment,
Ottawa, Ontario.

Dear Sirs:

With reference to the appearance, on February 22, 1955, before the Joint Committee of representatives from the Canadian Association of Exhibitions submitting a proposed amendment to Section 236 of the Criminal Code, I now submit such an amendment for your consideration.

I suggest that the proviso of Sub-section One of the said Section 236 should be amended to read as follows:—

Provided that the provisions of this Sub-section insofar as they do not relate to any dice game, shell game, punch-board or coin table, shall not apply to any agricultural fair or exhibition or to any person duly authorized by any agricultural fair or exhibition board to make, print, advertise, sell, barter, exchange or otherwise dispose of admission tickets to such agricultural fair or exhibition either within or outside its own grounds both prior to and during the annual fair held on said grounds, or to any operator of a concession leased by any agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair held on such grounds.

I have had an opportunity to consider the amendment suggested by the Pacific National Exhibition in its letter of March 8th to your committee and either that amendment or the one suggested above would be satisfactory from the point of view of the Association.

If after you have had an opportunity to consider these proposed amendments you should decide to refer them to the Law officers of the Crown, I would welcome an opportunity to discuss them with such officers.

The Association has asked me to again express their thanks to you for entertaining the brief submitted on behalf of the Association and also the briefs submitted by certain members of the Association.

Yours very truly,

Duncan K. MacTavish.

PACIFIC NATIONAL EXHIBITION

Exhibition Park—Vancouver 6, B.C.

MARCH 8, 1955.

The Joint Committee of the Senate and
The House of Commons on Capital and
Corporal Punishment and Lotteries,
Ottawa, Ontario.

Messrs. Chairmen and Members of the Committee:

As suggested on the occasion of our appearance before your Honourable Committee in Ottawa on February 22, 1955, we have pleasure in submitting herewith a proposal for an amendment to Section 236 (new Section 179) of the Criminal Code.

The suggestion is to add a sub-clause (f) to Sub-section 6 of the present Section (it would be sub-clause (e) to Sub-section 8 of the new Section) so that the Section would read as follows:—

- (6) This Section does not apply to
- (a)
 - (b)
 - (c)
 - (d)
 - (e)
 - (f) The conduct by a recognized agricultural fair or exhibition within its own grounds and during the period of the annual fair on its grounds of a raffle or prize drawing involving the sale, barter, exchange or other disposal of lots, cards, tickets or other means or devices for the purpose of such raffle or prize drawing in conjunction with an advance sale, either within or without its own grounds, of tickets or admissions to its annual fair.

Our solicitor has considered it preferable to add an exemption at this point rather than by enlarging the proviso to sub-section 1 (sub-section 3 of the new Section 179); so that the effect thereof would be to render the Section as a whole inapplicable to an agricultural fair in the circumstances set out. You will note that no effort has been made to establish any standards for a fair or exhibition to entitle it to the benefit of this exemption other than the use of the word "recognized." Our solicitor has felt that an attempt to define a fair by the use of any further language might lead to difficulties and confusion. It is felt that the appropriate department might have its own standard of "recognition" which would be suitable for the purposes which we have in mind.

We are aware that it is altogether likely that your Committee may be in receipt of other suggestions by way of amendment, and we are fully prepared to leave the matter to the decision of your Committee in the light of the submissions that have been made and with a view to the best interests of the community as a whole.

May we be permitted, however, to remind you of the peculiar situation as it obtains to our Exhibition and the difficulties which we confront in view of the ruling of our Attorney-General as it affects the conduct of our advance sale this year. We hope that if any action can be taken looking toward the introduction of some appropriate amendment it will be taken in time to clarify the situation for our purposes within the ensuing two months.

We would like to take this opportunity again of thanking you for your courtesies to us when our representatives appeared before your Committee, and naturally we will appreciate very much anything you can do to assist us in our present dilemma.

Yours very truly,

J. S. C. Moffitt,
President.

KEITH AND WESTBURY

Barristers and Solicitors

(For Retail Merchants Association of Canada, Inc.)

[Copy]

Telephone 93-2475
612 Avenue Building,
Winnipeg, Manitoba.

MARCH 16, 1955.

D. Gordon Blair,
c/o Herridge, Tolmie & Co.,
Barristers and Solicitors,
140 Wellington Street,
Ottawa, Ontario.

Dear Gordon:

As requested by the Minister of Justice, I have drafted out a suggested Section covering "give-aways", along the line discussed before the Committee yesterday.

I do not know how the wording will strike you, but if you have any suggestions which you think could or should be incorporated in this Section, I would indeed appreciate your assistance.

It should, of course, be made clear that this Section would only be effective provided that the other suggested amendment is enacted, defining a lottery as a contest which is also decided by the exercise of skill on the part of the contestant as well as by "chance". If this suggestion is not carried into the law, this suggested Section that I am submitting herewith would contain the same loophole through which all of these lotteries are being conducted at the present time.

Might I have the benefit of your comments?

Yours truly,

C. I. Keith.

Encl.

It shall be an offence punishable by
for any person, firm or corporation to dispose of or give-away or to offer to dispose of or give-away, any goods, wares or merchandise as a prize, award or premium by means of coupons, tickets, stamps, advertisements, cash-register receipts, parts or wholes of containers or similar devices, or by means of any contest, draw or lottery. This Section shall not apply to a manufacturer who gives or offers to give purchasers of goods, wares or merchandise manufactured by him a bonus or premium for the purchase thereof, provided that the bonus or premium offered or given is also manufactured by him.

APPENDIX E

A Statement setting forth some of the more important points that one might take into account in evaluating the worth of capital punishment statutes by Professor Albert Morris, Chairman, Sociology and Anthropology Department, Boston University.

1. Many detailed case studies of murderers are available, as well as statistical studies of murders and murderers. All of these indicate quite clearly that the causes of murder are both numerous and subtle. In my examination of these studies, and in the studies I have made myself, I have never come across a case in which the presence or the absence of a law providing for the death penalty has had any observable effect whatsoever. I think it is rather generally accepted that, in so far as punishment has a deterrent effect at all (and I think that it does in a number of types of crime), it is the certainty of the punishment rather than the severity of the punishment that is important. Even certainty of punishment is less effective in murder than in many other types of crime.

2. Those who assume that a potential murderer will undertake a rational consideration of his chances as they might be affected by the presence or absence of a capital punishment law might also need to assume that such a hypothetical and unlikely murderer would also take into account the proportion of cases in which the law is actually used. Executions for murder in the United States totalled 68 in 1950, 87 in 1951, and 71 in 1952, as against several thousand murders in each of these years.

3. The unimportance of capital punishment as a deterrent factor in murder is suggested also by statistical evidence from many countries. In the United States, for example, all six of the States which have abolished capital punishment for murder are consistently found to be among the ten lowest States in the country in their murder rates. On the other hand, those States that not only have capital punishment, but that use it most frequently, have rates that run from 10 to 20 times as high as those of the six abolition States. In States that have had a capital punishment law and have later repealed it, and, then, in some instances re-instated it, the murder rate has continued to follow the normal curve for the country as a whole, and the State has held its same position relative to other with reference to its murder rate. It should be noted that high murder rates in our Southern States are not due solely to high Negro rates. The rates for whites, alone, are several times higher than in some other areas.

4. The ineffectiveness of capital punishment as a deterrent is also suggested by evidence accumulated over a long period of time. I recall that three of England's hangmen, in the period between 1714 and 1750, were later found guilty of criminal offences, and in two of these instances, and possibly in all three, the offences were those for which the death penalty was being imposed.

To come to something more recent and more substantial, I have in process at this time a study of assaults with intent to kill committed in prisons in the United States over a period of 10 years. The data are all in my files, but I have not yet analyzed the information. However, preliminary examination makes it quite clear that such assaults occur more frequently in prisons in States which have the death penalty than they do in those which do not. For example, of 121 assaults with intent to kill, committed in the penal institutions of 27 of our states between 1940 and 1949, inclusive, none were committed by prisoners sentenced to be executed for murder whose sentence had been commuted to life imprisonment; 10 were committed by prisoners committed to life imprisonment for murder; and 111 were committed

by prisoners sentenced for other offences. I cite this as an example of men attempting to commit offences punishable by death under circumstances where detection and aggressive demand for their punishment are almost certain. It is of interest to note that one of the attempts to commit murder occurred in North Dakota, which, though it does not have capital punishment for murder in general, does retain it specifically for murder committed by one under a life sentence for murder. It is of some interest also to note that four out of the six States which do have capital punishment for murder were among those having no assaults with intention to kill during this ten year period.

5. Against the permissible argument that in some rare and unlikely, and as yet undemonstrated instances, the execution of an offender might deter another, must be set the absolutely and demonstrated fact that innocent men have been convicted of murder, as well as of other crimes, and the high probability that this sort of error will continue to occur from time to time. Edwin Borchard, a professor of law at Yale University, has written a book called, *Convicting the Innocent*, which consists of 65 cases in which there was a demonstrable conviction of an innocent man, and 29 of these are convictions for murder. I have in my own files additional cases similarly documented.

These errors come about because of mistaken identity, over-zealous police work, and other factors. Such errors cannot be brushed aside as due to the carelessness of American justice since similar errors have been demonstrated in England and Australia as well as other countries, and it is probable that not all erroneous convictions for murder have been uncovered and demonstrated. There is certainly the possibility of erroneous conviction for murder in Canada, even though its relatively small number of convictions would minimize the number of cases and even make it likely that none has occurred to date.

Nevertheless the point remains that the probability of error, followed by an irrevocable penalty, appears greater than the probability that someone may be deterred from committing a murder because the penalty is capital punishment rather than life imprisonment. Therefore the likelihood of social harm from the execution of the innocent is real and demonstrable, while the likelihood of social good from an alleged deterrent effect that can only be obtained by capital punishment is both undemonstrated and unlikely.

6. The argument that a person who has killed must be executed in order that we may be protected from his further crimes is also not supported by the evidence. Wardens universally agree that convicted murderers serving life terms are the most harmless and most manageable of their prisoners. This would be expected by anyone who has examined the kinds of people who commit murders. My own study of assaults with intent to kill in prisons also throws some light on the characteristics of murderers. They were rarely, if ever, involved in such offences in prison. Instead the assaults were committed by men who were serving time for other crimes and who had long records of aggressive behavior.

The most dangerous murderers are those whose killing is due to insanity and these are the very ones we now exempt from the death penalty. If capital punishment is to be used on those convicted of crimes, it should be used on those who are most dangerous to us and these are not the previously convicted murderers. Actually, under modern conditions, life imprisonment is an effective social protection from dangerous offenders. Escapes from the maximum security prisons are rare, and capture is virtually certain. It will have to be presumed that any reduction in the sentence to be served by life prisoners would be given by a Prison Board only when evidence of

the offender's harmlessness is clear. If Prison Boards failed in their duty at this point the remedy is clear, and it is obviously not the re-institution of capital punishment.

7. To these arguments there might be added a moral point that is worthy of consideration: as a people we profess to have a high regard for the sanctity of human life. We rightly carry this to the extent of insisting that a man has no right to kill another if it can safely be avoided, regardless of the extent of the provocation. If this is a desirable moral obligation upon each of us individually, is it not similarly incumbent upon us, organized as a democratic State, to maintain a like standard of conduct as an example to each member of the State? As a State we have the murderers safely in custody or we could not execute them. We are in no danger from them. We have ample means of protecting ourselves from any harm they might cause us by imprisoning them for life. By what right then do we as an association presume to do what we insist is a wrong thing for us to do as individuals, and with what effect upon our profession of the sanctity of human life is it done?

8. That the weight of the evidence and the arguments against capital punishment outweigh those in favour of it is suggested by its decline throughout western civilization as evidenced by:

- (a) The reduction of the number of capital offences from over 200 to one in most places, and in any event to not more than four or five.
- (b) The common elimination of the mandatory feature of the law where the death penalty is retained.
- (c) The complete abolition of the death penalty in more than a score of nations and states, and especially in those nations and states that are commonly considered the most democratic and the most progressive.
- (d) The common nullification of the death penalty, even where it is provided by law, through the practice of commuting sentences.

9. To what extent the existence of the death penalty on the books in Canada adversely affects the administration of criminal justice, I do not know. Elsewhere it often puts the jury in the position of having to evade the facts and bring in a verdict of manslaughter when, in its judgment it seems unfair to bring in a verdict that would call for the death penalty. It introduces delays and costs and stratagems that adversely affect the whole system of criminal justice and is based upon a dodging of responsibility all along the line. The legislator who passes the law, directs it not against some specific real human being but against a hypothetical stereotype. The jury which hears a capital case is told that it has no responsibility for the punishment; it merely determines what the facts disclose. The judge in turn has no responsibility for making capital punishment the law of the land, nor for finding a person guilty of murder: he merely acts as an instrument to pass the sentence which the law requires him to pass and no one seems to assume any very great responsibility towards the persons who comprise society.

The passage of a capital punishment law in fact requires the Court to impose on others a duty to execute that the voters who vote for capital punishment, and the judge who imposes the penalty, and the jury who find the verdict, would probably not be willing to perform. One wonders what effect it might have on proposed legislation providing for capital punishment if the bill carried a proviso that the person who proposed it would be required to carry out personally the first execution under it.

APPENDIX "F"

PART I

THE DEATH PENALTY AND POLICE SAFETY

By Thorsten Sellin

One argument for the retention of the death penalty is the contention that if it were abolished, the police would be more likely to be killed or injured by criminals or suspects when they are encountered. It is assumed that the presence of the threat of possible execution deters persons from carrying lethal weapons when they engage in crime or from using them against the police when they are in danger of arrest. These opinions have been voiced on many occasions. In recent years they have been forcibly expressed in the hearings of the U.K. Royal Commission on Capital Punishment and in the hearings in Canada of the Joint Committee on Capital and Corporal Punishment and Lotteries. On April 27, 1954, the President of the Chief Constables Association of Canada, appearing before the last mentioned committee, stated that

Our main objection is that abolition would adversely affect the personal safety of police officers in the daily discharge of their duties. It would be interesting to know, and if time had permitted I would have tried to obtain this vital information as to the number of policemen murdered in the execution of their duty in those parts of the world where capital punishment has been abolished. I submit that it will be found the number is much higher than in those countries where the death penalty is still in effect, and this point is the main one in our submission that our government should retain capital punishment as a form of security.

It should be noted that in this statement the witness not only voiced the belief that threat of the death penalty afforded protection to the police; he also voiced a claim that were data available they would show that more police are killed in abolition countries than in death penalty countries. And, finally, he implied that were it discovered that this would not be the case, the main argument of the police against abolition would be invalidated. The testing of the validity of the argument would therefore seem to be useful, especially since up to now neither the proponents or the opponents of capital punishment have made any effort to do so, relying instead on general assumption believed to have a factual basis.

There are great obstacles in the way of making a conclusive study of this problem. From a *theoretical point of view* what one should like to know is first of all whether or not a larger proportion of criminals actually *carry* lethal weapons in abolition states. This is probably impossible to discover with any degree of accuracy. Failing this, one would like to know if criminals in these states *use* such weapons in encounters with the police more frequently than in the death penalty states, whether or not a wounding or killing of a policeman occurs. In reading police reports one sometimes finds a notice that a policeman has been commended for bravery because after an exchange of shots, he succeeded in wounding the criminal or disarming him, although he himself was not injured. To secure reliable statistics of such attacks would, however, be virtually impossible. One is, therefore, compelled to seek data on the number of police killed or wounded. There is an *a priori* likelihood that records of such occurrences are kept in police departments. Although in discussions of the relationship of the death penalty to police safety references are generally made only to policemen killed, it is

obvious that woundings are equally important, for every wounding can be regarded as a killing that was avoided merely by chance, because the bullet or the knife failed to strike a vital spot, or medical aid was so promptly given that an otherwise possible death did not occur.

In brief, one should have data on the number of attacks on the police by criminals or suspects, whether the police are hurt or not, since the use of a lethal weapon (gun or knife) indicates a disregard for the consequences and since such a weapon is potentially fatal to life. If such data cannot be secured, we should have data on actual woundings and killings resulting from such attacks or encounters. *At the very least* we should have data on police killed by lethal weapons.

There are not only theoretical but also practical difficulties in making a comparative study of police safety in states with and those without the death penalty. These difficulties arise from the fact that many police departments possess unsatisfactory record systems and have, in some instances, evidently failed to keep information on the events here under discussion. Another problem is that of securing the cooperation of the police even when they undoubtedly possess records. This particular problem will become quite clear when in later pages we note the extent of cooperation in the study which will be reported on presently.

* * * *

In the author's seminar in criminology at the University of Pennsylvania during the academic year 1954-55, several studies have been carried on relating to various aspects of capital punishment. One of these studies was specifically designed to secure data on the comparative risk of a policeman's being injured or killed by a criminal or suspect using a lethal weapon. It was hoped that by securing data of this nature from cities in capital punishment states and in abolition states, some idea might be gained of the extent to which the police might be better protected in states with the death penalty. In other words, an attempt was made to discover the validity of the assumption so boldly stated by the witness before the Joint Committee to whom reference has already been made.

During the middle of December, 1954, a letter was mailed to police departments in all cities with more than 10,000 population according to the Census of 1950. This letter asked for data to be supplied on two schedules. One of these requested information, year by year beginning with 1919 and ending with 1954, on each case of a wounding or a killing of a member of the police department by a lethal weapon in the hands of a criminal or a suspect. A brief description of each incident was requested indicating, if possible, the nature of the offence involved. Furthermore, in each case information was asked about the kind of weapon used and whether or not the offender was insane. The part of the letter pertaining to this schedule read: "Dear Sir: In discussions about the retention or abolition of the death penalty, it has sometimes been claimed that the threat of this punishment in a state gives the police a certain amount of protection, which would be lost if that penalty were abolished and which the police do not have in states without capital punishment... Therefore, I would be much indebted to you, if you would at the earliest opportunity (1) have a responsible person in your department fill out and return to me the schedule enclosed; (2) give me your personal opinion on whether or not you feel that the presence or absence of the death penalty in your state has any effect on the practice of carrying and using lethal weapons by criminals. Since I am sending this questionnaire to all cities with more than 10,000 inhabitants in a large number of states, I would be glad to send you a copy of the results of the study, if you would find it of interest."

Seventeen states were selected for the study. All the six states which have no death penalty and had abolished it before 1919 were included and eleven states bordering on the abolition states. Knowing the great variations in the homicide rate in the United States, a problem already touched upon in the author's evidence before the Joint Committee in June 1954, it was assumed that states from about the same culture areas would afford the best basis for comparison.

Altogether 593 letters were sent out in the first mailing and after two months a follow-up letter was sent to departments that had not responded. As a result of this procedure 274 schedules were returned. Of these 266 proved to be adequate; those that were not used offered data for only a few years or reported that the data could not be compiled. The distribution of the schedules mailed out is found in Table I, as follows:

TABLE I

NUMBER OF CITIES WITH POPULATION OF 10,000 OR OVER, NUMBER OF REPLIES RECEIVED, NUMBER OF USABLE REPLIES AND PERCENTAGE OF SUCH REPLIES OF TOTAL RECEIVED FROM SEVENTEEN STATES.

Abolition States	Number of Cities	Number of Returns	Usable Returns	
			Number	Percentage
Maine.....	13	6	6	46.2
Michigan.....	57	33	31	54.4
Minnesota.....	22	14	14	63.6
North Dakota.....	5	4	3	60.0
Rhode Island.....	17	6	6	35.3
Wisconsin.....	34	22	22	64.7
Total.....	148	85	82	55.4
Capital Punishment States				
Connecticut.....	44	19	19	43.2
Illinois.....	72	22	21	29.2
Indiana.....	39	18	15	38.6
Iowa.....	23	10	10	43.5
Massachusetts.....	88	38	38	43.2
Montana.....	7	2	1	14.3
New Hampshire.....	10	6	6	60.0
New York.....	73	37	36	49.3
Ohio.....	78	34	34	43.6
South Dakota.....	6	2	2	33.3
Vermont.....	5	1	1	20.0
Total.....	445	189	183	41.0
Grand Total.....	593	274	266	44.8

1. Of the 593 cities 397 fell into the smallest population group, with populations of between 10,000 and 30,000. One hundred and fourteen (114) had between 30,000 and 60,000 inhabitants; 38 had between 60,000 and 100,000 inhabitants; 33 had from 100,000 to half a million, but all but two—one city in Indiana and one in Ohio—had fewer than 35,000. Finally, six cities had over half a million, including New York City, Buffalo, Cincinnati, Cleveland, Boston and Chicago in capital punishment states and Milwaukee, Detroit and Minneapolis in abolition states.

2. 44.8% of the cities returned usable schedules, but the percentage was higher for the abolition states—55.4%—than for the capital punishment states—41%.

3. The smaller the city, the better the response. In abolition states, 60.4% of the cities under 30,000 inhabitants returned usable schedules; so did half of the cities between 30,000 and 100,000 population. In the capital punishment states, 42.4% of the smallest class of cities replied and 41.7 and 30 per cent respectively of the next two classes in size.

4. No replies were received from Detroit and Minneapolis, nor from New York City, Cleveland or Boston. The largest cities represented in the returns were Chicago, Milwaukee, Cincinnati and Buffalo.

5. The percentage of cities replying in the various abolition states ranged from 64.7 and 63.6% in Wisconsin and Minnesota to 35.3% in Rhode Island; in the capital punishment states the range was from 60% in New Hampshire to 20% in Vermont. Of the largest capital punishment states—New York, Illinois, Ohio and Massachusetts, New York had the best percentage (49.3) and Illinois the lowest (29.2). On the other hand, Chicago submitted the best report and the only one from a truly metropolitan center.

In the analysis which follows, Chicago will be dealt with in a separate section for during the period 1919-54 that city had 177 casualties, or 39 more than all the other 265 cities put together. We shall take these 265 cities first.

It will be recalled that the schedule asked for information both on woundings and on killings of police, in the belief that this would yield more probative results. However, an inspection of the schedules returned made it clear that the data on woundings were so incomplete that there was no possibility of using them. All the largest cities reporting (except Chicago) reported only the policemen killed; many others stated that figures on woundings were available only for the most recent years, etc. Hence, only the information on the killing of policemen can be utilized. Since, however, this is the kind of information which always seems to be brought forward in discussions of police safety in capital punishment states, it should suffice for our purposes.

We shall analyze, then 128 instances or attacks or encounters in which policemen were killed during 1919-54 in 266 cities in 17 states, six of which are abolition states. In these 128 encounters 138 police were actually killed; in one instance, three policemen were casualties and in each of nine of them, two were killed. It is assumed a priori that it is something of an accident that more than one is shot in an encounter and that the important fact is that the criminal shot at the policeman or policemen, whether one or more happened to confront him. Four of these instances occurred in Michigan and one in Minnesota, one in Ohio, one in Connecticut and two in Massachusetts.

We have not included in the 128 cases the following:

(1) Seven cases in which the killer was insane: Minnesota, 1; Wisconsin, 1; Connecticut, 1; Iowa, 1; New York, 2; Ohio, 1. Two then, occurred in abolition states and five in capital punishment states.

(2) One case in Wisconsin (abolition state), where the offender struck the officer with a flash light; one in New York, where the offender struck the officer with the gun without firing it, and one in Ohio where the offender backed a motor vehicle into the officer in such a manner that he was crushed against another vehicle. It is assumed that these attacks were chiefly meant to disable the officer in each case. These offenders either did not carry guns or did not use them as firearms.

On the other hand we have included three occurrences, one each in Connecticut, New York and Ohio, when a suspect during or after arrest, although he was himself unarmed, succeeded in seizing the policeman's own gun and shooting him with it.

Table II gives, state by state and by size of city, the number of cities whose schedules have been used, the number of cases reported during the entire period 1919-54 and the rate per 100,000 population for each state and group of cities based on the 1950 census. Abolition states and capital punishment states have been separately treated. It might be argued that it is improper to use the 1950 population as the base for the computation of rates that involve cases scattered over a thirty-six year period preceding. It would undoubtedly be possible to arrive at some population figure which would on the surface appear more defensible, but which would on close analysis be found to have equally great defects, for it must be remembered that all the cities involved have undergone the effect of considerable migratory changes due to a depression and a world war and that no one can determine with any real accuracy what population basis is preferable. It is believed that the rates reflect with reasonable faithfulness the comparative size of the problem in the different states and in the two types of states. Whatever categories are compared, these comparisons are, of course, more useful the larger the number of cities and populations involved. If one city alone is found in a particular class and if it has a small population, a single case of police homicide would give it a rate which could be very high and yet meaningless.

TABLE II.

CASES OF POLICE HOMICIDE, BY CITIES GROUPED ACCORDING TO SIZE; AND RATES PER 100,000 POPULATION IN EACH GROUP OF CITIES, BY STATE.

A. Abolition States	10,000—30,000				30,000—60,000				60,000—100,000			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Maine.....	4	.....	54,280	0.0	1	.....	31,558	0.0	1	.....	77,634	0.0
Michigan.....	24	8	419,904	1.9	4	1	189,609	0.5	2	3	187,912	1.6
Minnesota.....	14	4	259,461	1.5								
North Dakota.....	3	1	51,369	1.9								
Rhode Island.....	3	.....	46,084	0.0	3	1	116,463	0.9				
Wisconsin.....	13	2	207,940	0.9	7	4	252,580	1.6	1	3	96,056	3.1
Total.....	61	15	1,039,038	1.3	15	6	590,210	1.0	4	6	361,602	1.6

A. Abolition States	100,000—350,000				500,000—650,000				All Cities			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Maine.....									6	.....	163,472	0.0
Michigan.....	1	1	176,515	0.6					31	13	973,940	1.3
Minnesota.....									14	4	259,461	1.5
North Dakota.....									3	1	51,369	1.9
Rhode Island.....									6	1	162,547	0.6
Wisconsin.....					1	5	637,392	0.8	22	14	1,193,968	1.2
Total.....	1	1	176,515	0.6	1	5	637,392	0.8	82	33	2,804,757	1.2

(Continued on following page)

TABLE II

CASES OF POLICE HOMICIDE, BY CITIES GROUPED ACCORDING TO SIZE; AND RATES PER 100,000 POPULATION IN EACH GROUP OF CITIES, BY STATE—(concluded)

B. Capital Punishment States	10,000-30,000				30,000-60,000				60,000-100,000			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Connecticut.....	11	—	190,746	0-0	5	1	212,213	0-5	1	.....	74,293	0-0
Illinois.....	14	4	206,214	1-9	6	1	225,701	0-4	1	1	92,927	1-1
Indiana.....	10	3	170,785	1-7	4	7	171,048	4-1	.....	.....	.....	.....
Iowa.....	6	.....	85,429	0-0	2	2	64,244	3-1	1	.....	72,296	0-0
Massachusetts.....	31	6	499,841	1-2	5	1	221,877	0-4	1	1	66,112	1-5
Montana.....	1	1	17,581	5-7	.....	.....	.....	.....	.....	.....	.....	.....
New Hampshire.....	4	.....	59,809	0-0	1	1	34,469	2-9	1	.....	82,732	0-0
New York.....	24	3	426,631	0-7	7	.....	290,304	0-0	2	4	171,546	2-3
Ohio.....	21	7	371,623	1-9	7	3	223,303	1-3	2	1	146,379	0-7
South Dakota.....	2	.....	24,920	0-0	.....	.....	.....	.....	.....	.....	.....	.....
Vermont.....	1	.....	12,411	0-0	.....	.....	.....	.....	.....	.....	.....	.....
Total.....	125	24	2,065,990	1-2	37	16	1,443,159	1-1	9	7	706,285	1-0

B. Capital Punishment States	100,000-350,000				500,000-650,000				All Cities			
	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate	No. Cit.	No. Cases	Population	Rate
Connecticut.....	2	3	263,186	1-1	.....	.....	.....	.....	19	4	740,438	0-5
Illinois.....	1	1	133,607	0-7	.....	.....	.....	.....	21	6	524,842	1-1
Indiana.....	1	6	177,965	3-3	.....	.....	.....	.....	15	11	475,440	2-3
Iowa.....	1	.....	203,486	0-0	.....	.....	.....	.....	10	8	399,934	2-0
Massachusetts.....	1	.....	.....	.....	.....	.....	.....	.....	38	8	991,316	0-8
Montana.....	.....	.....	.....	.....	.....	.....	.....	.....	1	1	17,581	5-7
New Hampshire.....	.....	.....	.....	.....	.....	.....	.....	.....	6	1	177,010	0-5
New York.....	2	3	434,019	0-7	1	8	580,132	1-4	36	18	1,902,632	0-9
Ohio.....	3	14	635,389	2-2	1	13	503,998	2-6	34	38	1,880,692	2-2
South Dakota.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	24,920	0-0
Vermont.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	12,411	0-0
Total.....	10	27	1,847,652	1-5	2	21	1,084,130	1-9	183	95	7,147,216	1-3

Let us first compare the *rate* of fatal attacks on police in 6 abolition state cities (82) with a total population of 2,804,757, with the corresponding rate for 11 capital punishment state cities (182) except Chicago with a total population of 7,147,216 in 1950. The rate per 100,000 population in the former is 1-2 and in the latter 1-3. They prove to be the same, for the difference is hardly significant.

If we take the cities of the smallest class—those between 10,000 and 30,000 inhabitants—and use only rates from states with at least ten such cities reporting, we find the following comparative rates:

Abolition States	Capital Punishment States
Michigan.....	Ohio.....
Minnesota.....	Illinois.....
Wisconsin.....	Indiana.....
	New York.....
	Connecticut.....
	Massachusetts.....

In the group of cities with populations between 30,000 and 60,000, the abolition cities have a total rate of 1-0 and the capital punishment cities 1-1, but there are considerable variations among the states ranging from a high of 4-1 in Indiana to a low of .4 for Massachusetts. In the third to fifth groups of cities the number reporting is, of course, small but it may be observed that compared with Milwaukee's (Wisconsin) rate of .8 the rate for Cincinnati, Ohio—2-6—and Buffalo, New York—1-4—are somewhat higher.

It is obvious from an inspection of the data that it is impossible to conclude that the states which have abolished the death penalty have thereby made the policeman's lot more hazardous. It is also obvious that the same differences

observable in the general homicide rates of the various states are reflected in the rate of police killings. This can be readily observed by comparing the middlewest states with and without the death penalty with corresponding states in the eastern part of the country, as is done in the following table, where the appropriate rates of police homicides are presented.

Eastern States		Middle West States	
Abolition States	Capital Punishment States	Abolition States	Capital Punishment States
Maine..... 0.0	New Hampshire.... 0.5	North Dakota..... 1.9	Iowa..... 2.0
Rhode Island..... 0.6	Massachusetts..... 0.8	Minnesota..... 1.5	Illinois..... 1.1
	Connecticut..... 0.5	Michigan..... 1.3	Indiana..... 2.3
	New York..... 0.9	Wisconsin..... 1.2	Ohio..... 2.2

Another interesting comparison is afforded by the material, namely the trend of the killings. The following table, in which the cases for the thirty-six year period have been grouped into six year periods, show clearly that the 1925-36 periods were the most hazardous and that the hazards have greatly declined.

TABLE III.—TRENDS IN CASES OF POLICE KILLINGS, 1919-54,
AS REPORTED BY 266 CITIES IN SEVENTEEN STATES.

Years	Cases		Police Killed		Both Combined	
	Abol. States	C.P. States	Abol. States	C.P. States	Cases	Police Killed
1919-1924.....	8	25 ³	12	25	33	37
1925-1930.....	8 ¹	31 ⁵	9	31	39	40
1931-1936.....	5 ¹	24 ¹	5	26	29	31
1937-1942.....	4	9	4	11	13	15
1943-1948.....	5 ²	5 ^{1, 4}	5	5	10	10
1949-1954.....	3	1	4	1	4	5
Total.....	33	95	39	99	128	138

NOTES TO THE TABLE:—

¹ Excluding a case in which the killer was insane.

² Excluding a case in which officer was struck by flashlight.

³ Excluding three cases in which the killer was insane; excluding a case in which killer used gun as club.

⁴ Excluding a case in which officer was crushed by car operated by the killer.

⁵ Including three cases, in which killer seized the officer's gun and killed him.

In only two of the killings was a knife the weapon used; the others were committed by firearms, usually described merely as a gun, a pistol, or a revolver. In one case, a rifle was used and in three cases a shotgun. A machine gun was used in a single instance—in connection with a bank robbery in Needham, Mass., in 1934, when two police officers were killed, one during the robbery and the other during his pursuit of the criminals.

It will be recalled that the letter which asked for data also requested that the reporter indicate whether or not he believed that the existence of the threat of possible execution gave the police a certain amount of protection which was lacking in the abolition states. Only 69 replies to this request were received from cities in capital punishment states and 27 replies from abolition states, i.e. 36.5 per cent of the responding cities in the capital punishment states and 31.7 per cent of the cities in the abolition states gave an opinion. In the death penalty states, the police officer reporting believed in the added protective force

of the death penalty in 62 out of 69 cities, or 89.8%. In the abolition states, 20 out of 27, i.e. 74.1% did *not* believe that there was any connection between the possible threat of the death penalty and the likelihood of a criminal using a lethal weapon in encounters with the police. In view of the results from this study, this opinion seems to be the correct one.

The Chicago Data

The largest cities, which presumably would have the best records and the most accessible ones generally failed to return the schedules, as has already been mentioned. One prominent exception is Chicago, a city which in 1950 had a population of 3,620,962. Due to the courtesy of Commissioner Timothy Connor O'Regan and the work of Mr. Edward C. Erickson, Director of Records and Communications of the Chicago Police Department, rather complete data were returned for the period 1919-1954, both on the number of police killed each year and on those wounded in encounters with criminals. These data made it possible to discover in what connection the killings occurred—the crime or situation involved—and for a brief span of years, 1923-1931, this information could also be secured in relation to the woundings. Injuries were not recorded before 1923 nor after 1931. The following table (Table IV) contains, in summarized form, the information given about each death. Unlike the preceding presentation, each police officer killed is counted rather than cases.

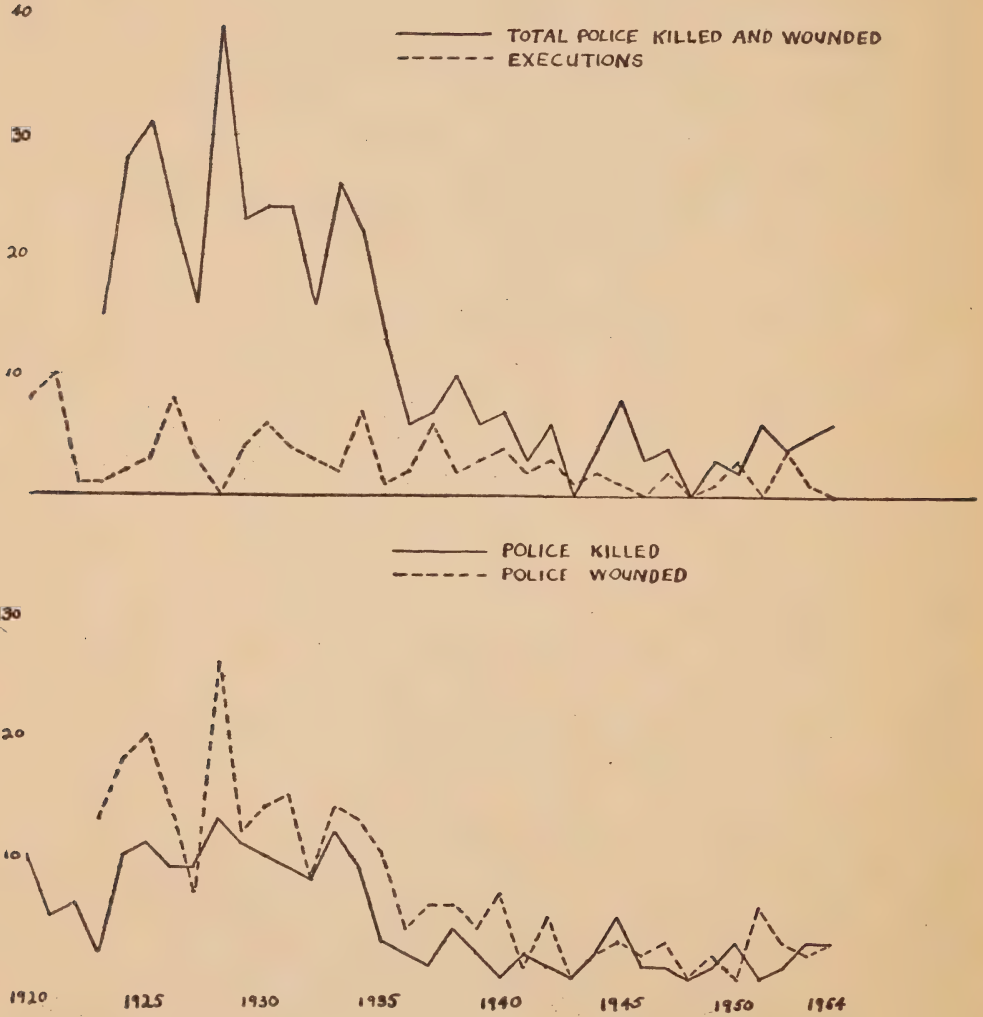
TABLE IV
MEMBERS OF CHICAGO, ILL., POLICE DEPARTMENT KILLED OR WOUNDED BY LETHAL WEAPONS
IN THE HANDS OF CRIMINALS OR SUSPECTS, 1920-1954

Year	Total killed or wounded			Crime or situation involved															Number of executions in Cook County
				Robbery			Murder			Attempted arrest or escape			Investigation or search			Other crimes			
	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	K.	W.	Tot.	
1920	10			5						3						2			8
1921	5			2						1			1			1			10
1922	6			2						1						3			1
1923	2	13	15		3	3		1	1			9	2				1	1	1
1924	10	18	28	6	5	11				2	9	11	1	1		1	4	5	2
1925	11	20	31	4	9	13				6	5	11	1	1	1	2	5	5	3
1926	9	14	23	2	7	9				3	4	7	3		3	1	3	4	8
1927	9	7	16	4	3	7				4	3	7	3			1	1	2	3
1928	13	26	39	7	9	16	2	1	3	3	16	19				1		1	
1929	11	12	23	3	4	7				2	7	9	2			2	4	1	4 ¹
1930	10	14	24	3	7	10				2	6	8	3	3		3	2	1	6
1931	9	15	24	6	13	19				2	2	4	1			1			4
1932	8	8	16	4						3									3
1933	12	14	26	7			1			2						1			2
1934	9	13	22	5												4			7
1935	3	10	13	3															1
1936	2	4	6		1								1			1			2
1937	1	6	7		7														6
1938	4	6	10	2						1						1			3
1939	2	4	6	2															2
1940		7	7																4
1941	2	1	3	2															2
1942	1	5	6	1															3
1943																			1
1944	2	2	4				2												2
1945	5	3	8	1			1			3									1
1946	1	2	3							1									
1947	1	3	4							1									2*
1948																			
1949	1	2	3							1									1
1950	2		2	1									1						3
1951		6	6																
1952	1	3	4	1															4
1953	3	2	5	1						2									1
1954	3	3	6							3									
	168	243	411	75			6			46			16			25			100

¹ First executions by electricity in Cook County.

² National execution statistics published by U. S. Bureau of Prisons reports only one execution in Illinois in 1947. Warden of Cook County Jail, where electric chair for County is found, reports two.

NUMBER OF POLICE KILLED OR WOUNDED IN CHICAGO, ILL.,
AND NUMBER OF EXECUTIONS IN COOK COUNTY,
1920 - 1954



A study of Table IV and the diagram based upon it shows that in a general way the experience in Chicago follows the same trend shown in Table III. The decade of 1920 and the first half of the decade of 1930 were especially hazardous to the police in Chicago, peaks in the number of killed and wounded being reached in 1925 and 1928 and gradually reaching a fairly stable and comparatively low level after 1938. The table also gives the annual number of executions in Cook County, which has its own electric chair. These executions were not necessarily for the murder of police officers, such cases not having been segregated. However, the curve of executions follows generally the trend of the homicide curve. There is nothing to suggest that there is any other relation between the two than that when there are more homicides there are more executions and when there are fewer homicides there are fewer executions.

The table, furthermore, indicates that most of the killings of policemen occurred in encounters with robbers. All but 26 of the 168 cases occurred either when police officers interfered with hold-ups, were trying to arrest a person or search him or were investigating some complaint, which brought them into contact with a suspect.

Although the Detroit police department failed to reply to our request, the annual reports of that department have been examined for the years 1928-1944 and 1945-1948. Fortunately these reports contain complete data on both woundings and killings of policemen, so that a comparison can be made with Chicago for the years mentioned.

Police Killed or Wounded

Year	Chicago, Illinois			Detroit, Michigan		
	Killed	Wounded	Total	Killed	Wounded	Total
1928	13	26	39	4	11	15
1929	11	12	23	4	13	17
1930	10	14	24	3	7	10
1931	9	15	24	2	5	7
1932	8	8	16	1	3	4
1933	12	14	26	1	..	1
1934	9	13	22	..	4	4
1935	3	10	13	1	..	1
1936	2	4	6	1	4	5
1937	1	6	7	1	..	1
1938	4	6	10	2	..	2
1939	2	4	6	1	2	3
1940 .....	..	7	7	..	..	..
1941	2	1	3	..	..	..
1942	1	5	6	..	..	..
1943 .....	..	..	..	2	..	2
1944	2	2	4	..	..	..
1945	5	3	8	(not compiled)		
1946	1	2	3	..	..	..
1947	1	3	4	2	..	..
1948 .....	..	..	..	..	..	..

The population of these two cities was

in 1930 for Chicago 3,376,438 and for Detroit 1,568,662
in 1940 for Chicago 3,396,808 and for Detroit 1,623,452
in 1950 for Chicago 3,620,962 and for Detroit 1,849,568

In 1930, Chicago had some 200,000 inhabitants more than double Detroit's population, but by 1950 Chicago was not quite twice the size of Detroit. If this is kept in mind, the table above is distinctly in Detroit's favour.

Conclusion. The claim that if data could be secured they would show that more police are killed in abolition states than in capital punishment states is unfounded. On the whole the abolition states, as apparent from the findings of this particular investigation, seem to have fewer killings, but the differences are small. If this is, then the argument upon which the police is willing to rest its opposition to the abolition of capital punishment it must be concluded that it lacks any factual basis.

APPENDIX "F"

PART II

THE STATE POLICE AND THE DEATH PENALTY

A study of the Comparative Safety of the State Police in
States that have and States that do not have the

Death Penalty

By Donald Campion, S. J.

Testifying before a Joint Committee of the Senate and the House of Commons of the Canadian Parliament, on April 27, 1954, Mr. Walter H. Mulligan, President of the Chief Constables' Association of Canada and Police Chief of Vancouver, stated with respect to policemen killed in the execution of their duty in those parts of the world where capital punishment has been abolished:

I submit that it will be found that the number is much higher than in those countries where the death penalty is still in effect and this point is the main one in our submission that our government should retain capital punishment as a form of security.*

Elsewhere in his testimony in support of the claim that the death penalty is a deterrent, Mr. Mulligan remarked:

That is my opinion as a police officer, and over the years in speaking with other police officers in this country and in the United States I have found that it seems to be a general opinion amongst police officers on the North American continent.*

Further proof of the popularity of this viewpoint in police circles came from testimony of several other Canadian police officials as reported in the same *Evidence*. Similar sentiments, in fact, are found expressed wherever discussion arises on the value of capital punishment.

In view of current public interest concerning the retention of capital punishment in the United States and Great Britain, as well as in Canada, a test of the empirical validity of this claim made in support of the death penalty would seem of some practical value. Such a test, it is here assumed, may be made by comparing the actual number of police officers killed in jurisdictions having and those not having the death penalty. For as Mr. Mulligan implies, if this claim is valid, where other factors are equal the number of officers killed in areas retaining the death penalty should prove to be lower than the number killed in areas where this penalty has been abolished.

For purposes of such a test selected states in the United States of America suggest themselves, since several of these states have abolished the death penalty, while others have not. In each of these states a number of separate police forces are found. The present study is restricted to forces organized and maintained by the state governments, as distinguished from municipal and other agencies. In the absence of adequate information on killings of state police officers in public records, it was necessary to seek data for the proposed comparison from the selected police forces. Requests were mailed to the directors of twenty-seven state police forces for information on the number of deaths or woundings of officers, by lethal weapons in the hands of criminals, for the period since the organization of their respective departments. Included in the

* Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries, *Minutes of Proceedings and Evidence*, No. 8, Tuesday, April 27, 1954. Ottawa: Queen's Printer and Controller of Stationery, 1954; p. 331.

* *Ibid.*, p. 333

twenty-seven states from which information was sought were all six of the United States which do not have the death penalty in their statutes and a group of other states selected primarily on the basis of geographical proximity and cultural similarity.

The mailed request read:

In discussions about the retention or abolition of the death penalty, the claim of the supporters of that punishment, especially in police circles, has often been made that the existence of the death penalty in a given state gives the police a certain amount of protection which would be lost if the death penalty were abolished. The reasoning behind this belief is that, where the death penalty exists criminals are less likely to carry lethal weapons for fear that they might be tempted or forced to use them in a brush with the police.

1. Please complete the enclosed blank as accurately as possible. The accompanying blank was headed:

Name of Department:

Date Organized:

Extent of jurisdiction (i.e. full police authority; limited to highway patrol, etc.):

Please fill in the information requested in the columns below, for any instances of death or wounding, by lethal weapon in the hand of a criminal, of a member of the state police force; since the department was organized.

Date of incident	Rank of member	Killed or wounded: specify which	Check, if criminal was insane	Type of weapon used	Brief description of circumstances of death or wounding
------------------	----------------	----------------------------------	-------------------------------	---------------------	---

Response to the mailed requests was very satisfactory. Replies were received from twenty-four of the twenty-seven state police forces queried. Among the respondents were the six non-death penalty states. In every instance the reply furnished basic information about killings, though in one instance the date of an incident was not reported. In several replies no details were reported on the circumstances of the killing.

For an understanding of the data reported by the state police forces, it must be noted that these forces vary from state to state in several respects. An index to some of these variations is provided in Table I furnishing the date of organization of the state police force in each state, the size of the forces in the last reported year, the extent of jurisdiction conferred on the different forces. Study of this table shows, for instance, that the Connecticut Department of State Police was organized as early as 1903, whereas the California Highway Patrol came into existence in its present form only in 1947. Again, the range of size extends from the Pennsylvania State Police with 1900 uniformed members in 1954, to the 37 uniformed officers of the South Dakota force for the same year.

Jurisdiction, it will be noted in Table I, is described as limited or full. Limited jurisdiction, though the precise limits may vary slightly from state to state, implies that the state police force exercises power only on highway patrol and that its primary duty involves "enforcement of Vehicle Code and related acts respecting the use of vehicles on highways.*

*The quotation is from a report furnished by the California Highway Patrol. For information on the history and present status of state police in the United States, cf. Bruce Smith, *Police Systems in the United States*, xiii, 351 pp. New York: Harper and Brothers, 1949; pp. 164-90.

Full jurisdiction, on the other hand, signifies that the state police possess all general police powers enjoyed by sheriffs, constables, municipal police, or other peace officers, and the exercise of this power is territorially limited only by the state's boundaries. In some states, state police officers may also act as fire, fish or game wardens.

The nature and scope of police activities and, presumably, the consequent risk of exposure to criminals willing to use lethal weapons, will also vary to some extent in accordance with such factors as the demographic or cultural pattern of the different states. Table I accordingly includes some statistical information about the states as an aid to a comparison of them on the basis of size and distribution of population in urban and rural areas, and on the basis of the crime rate per 100,000 population, for murder and non-negligent manslaughter, for the urban areas in each state reporting to the Federal Bureau of Investigation of the United States Department of Justice, and published annually by the FBI in the *Uniform Crime Reports*. The crime rate for murder and non-negligent manslaughter will represent, it is assumed, at least roughly the prevailing cultural pattern in a given state with respect to criminality involving deeds of ultimate violence.

TABLE I

DATA RELATING TO THE STATE POLICE FORCE, POPULATION DISTRIBUTION, AND CRIME RATE FOR TWENTY-FOUR STATES

State	Date of organization, State Police (a)	Size of police force (b)	Total population, 100,000's (c)	Urban population, 100,000's (c)	Rural population, 100,000's (c)	Average of Crime Rates (d)
California (e).....	1947 (g)	1,526	10,856	8,539	2,046	3.53
Connecticut.....	1903 (h)	365	2,007	1,558	448	1.78
Georgia.....	1937	308	3,444	1,559	1,885	18.13
Illinois.....	1919	501	8,712	6,759	1,952	5.45
Indiana.....	1935	446 (i)	3,934	2,357	1,577	4.65
Iowa.....	1935	225	2,621	1,250	1,370	1.44
Maine (f).....	1925	128	913	472	441	1.31
Maryland.....	1935	251	2,343	1,615	727	7.66
Massachusetts.....	1921	336	4,690	3,959	731	1.10
Michigan (f).....	1917	680	6,371	4,503	1,868	4.28
Minnesota (e) (f).....	1927	216	2,982	1,624	1,357	.99
Missouri.....	1931	320	3,954	2,432	1,521	7.41
Nebraska (e).....	1937	132	1,325	621	703	1.84
New York.....	1917	1,201	14,830	12,682	2,147	2.52
North Dakota (e) (f).....	1935	42	619	164	454	.....
Ohio (e).....	1933	562	7,946	5,578	2,368	4.29
Oregon.....	1931	391	1,521	819	702	2.40
Pennsylvania.....	1905	1,900	10,498	7,403	3,094	2.41
Rhode Island (f).....	1925	84	791	667	124	1.03
South Dakota.....	1939	37	652	216	436	.69
Texas.....	1930	796	7,711	4,838	2,873	11.28
Washington.....	1921	259	2,378	1,503	875	2.79
West Virginia.....	1919	220	2,005	694	1,311	4.95
Wisconsin (e) (f).....	1939	70	3,434	1,987	1,446	1.47

(a) Information supplied by State Police Departments.

(b) Number of uniformed members, as of July, 1953; *The Book of the States*, Vol. X, 1954-55. Chicago: The Council of State Governments, 1954. pp. 282-83.

(c) As of April 1, 1950; source: *Seventeenth Decennial Census, 1950*. Washington: United States Bureau of the Census.

(d) Average of crime rates, for murder and non-negligent manslaughter, for urban areas reporting to the Federal Bureau of Investigation, per 100,000 inhabitants in areas reporting, for 1951-52-53; *Uniform Crime Reports for the United States*, Vols. XXII-XXIV.

(e) Indicates limited jurisdiction exercised by State Police; unless indicated, the State Police exercise full police powers within the state.

(f) Indicates death penalty illegal in state, except that Michigan and North Dakota prescribe the death penalty for treason; North Dakota also permits the death penalty for first-degree murder committed by a prisoner serving a life sentence for first-degree murder; and Rhode Island makes the death penalty mandatory for murder committed by a prisoner serving a life sentence.

(g) Present force reorganized, 1947; report covered 1946 activity of previous force.

(h) Present study covers 1905-54; no deaths report for period prior to 1905.

(i) Estimated number, as reported in *The Book of the States*, Vol. X., p. 283.

"Crime rates . . . are the number of crimes reported by the police expressed in terms of crimes per unit of population in the areas represented by the reporting law enforcement agencies. The unit of population used is 100,000 inhabitants." Federal Bureau of Investigation. *Uniform Crime Reports for the United States*, Vol. XXV, No. 2, 1954. Washington: Government Printing Office, 1955. p. 90. "Murder and nonnegligent manslaughter includes all wilful felonious homicides as distinguished from deaths caused by negligence. Does not include attempts to kill, assaults to kill, suicides, accidental deaths, or justifiable homicides." p. 119.

TABLE II
NUMBER OF STATE POLICE OFFICERS KILLED BY LETHAL WEAPONS IN THE HANDS OF CRIMINALS, FOR TWENTY-FOUR STATES

	Period 1905 to 1954 inclusive																								Total
	1905		1906		1907		1908		1909		1910		1911		1912		1913		1914		1915		1916		
	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
California ^a	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	3
Connecticut ^b	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	2
Georgia.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	2
Illinois.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	6
Indiana.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	3
Iowa.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Maine.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Maryland.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Massachusetts.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Michigan.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Minnesota.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Missouri.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	3
Nebraska.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	2
New York.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	8
North Dakota.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Ohio ^c	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	7
Oregon.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	16
Pennsylvania.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Rhode Island.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
South Dakota.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Texas.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	4
Washington.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
West Virginia.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1
Wisconsin.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	9
Total.....	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	1	0	77

^a The present California Highway Patrol was organized in 1947; data reported covers one year of duty by the previous force.
^b The Connecticut State Police were organized in 1903; no deaths were reported for the period prior to 1905.
^c No date was given for the single killing reported by the Ohio State Highway Patrol; the single incident is assigned to the first year of existence.
N.B. (*) denotes no data on record; (†) denotes records kept.

Table II records the total number of state police officers killed by lethal weapons in the hands of sane criminals for the twenty-four state police forces reporting. To the total of seventy-seven officers thus killed may be added nine reported killed by persons identified as insane. These nine deaths are not included in our study since the possible deterrent value of the death penalty cannot be presumed to have been in question under such circumstances. Deaths resulting from automobile accidents or other accidents in the line of duty are likewise excluded from consideration.

Of the seventy-seven deaths tabulated, six were reported from two out of the six non-death penalty states. The remaining seventy-one deaths were distributed among the eighteen death penalty states. Thus, of the twenty-four states reporting, four reported no officers killed. These four were all non-death penalty states.

Of the eighteen states in which the state police exercise full police power, seventeen reported a total of seventy-one officers killed. The eighteenth state in this group reported no killing; this state is likewise one of the three in this group that do not have the death penalty.

Of the six states which grant only limited power to their state police forces, three reported a total of six killings. These three states likewise have the death penalty. The three non-death penalty states in this group reported no killing of a police officer in their histories.

In summary form, the totals reported are:

Number killed in 18 death penalty states	71
Number killed in 6 non-death penalty states	6
Number killed in 18 full jurisdiction states	71
Number killed in 6 limited jurisdiction states	6
Number killed in 15 death penalty, full jurisdiction states ..	65
Number killed in 3 non-death penalty, full jurisdiction states	6
Number killed in 3 death penalty, limited jurisdiction states	6
Number killed in 3 non-death penalty, limited jurisdiction states	0

Information on woundings of state police officers was less complete than that on killings. Twelve of the twenty-four respondents gave no information under this heading. In some instances the respondent indicated that a record of woundings was either not available or incomplete. Because of this incomplete response no attempt has been made to compare data on woundings. At the end of this paper an analysis is made of the information received from the Pennsylvania State Police. This is done because of the interest attaching to the unusually complete record available for that force during the fifty years of its existence. In summation it may be noted that of the twelve states offering some data on woundings, nine were death penalty states and three were non-death penalty states. A total of seventy-one woundings of state police officers, by lethal weapons in the hands of sane criminals, were reported; sixty-five from death penalty states, six from non-death penalty states.

With respect to the nature of the weapons used in the seventy-seven killings reported by the State Police forces, in three instances the nature of the weapon was not recorded. The seventy-four remaining killings involved the use of firearms of various types.

Information concerning the circumstances of the killings was incomplete in twenty-one of the seventy-seven killings reported. Thirty killings of police officers are reported to have occurred while the officer was attempting to arrest criminals wanted for such crimes as murder, robbery, and the like. In eight instances the officer met death while investigating premises or serving warrants. In seven instances a killing resulted when an officer attempted to

stop a stolen car on the highway. Of the remaining eleven killings reported, five occurred when an officer attempted to disarm unruly persons, three took place in the course of investigations of traffic violations, two occurred while police attempted to disperse mobs, and one took place while an officer was transporting a prisoner.

Since the data recorded in Table I on the police force, population distribution, and crime rate of the twenty-four states here studied indicate considerable diversity among the states, three groups of states have been selected from the entire number for the purpose of making more meaningful comparisons among them. The first basis for selection was geographical proximity. With the exception of Wisconsin, which here has been assigned to the West North Central group, all the states now to be considered are grouped according to the standard regional divisions used by the United States Bureau of the Census: New England, East North Central, West North Central, Wisconsin, in fact, borders on states in both the North Central regions, but in other respects its affinity to the West North Central region is marked. Such are its population distribution and crime rate for murder and non-negligent manslaughter in urban areas. Inspection of Table I under the appropriate headings will show that the states in each group are roughly similar in these respects.

The first group selected includes four New England states; two of these are non-death penalty states, Maine and Rhode Island. All four states grant full jurisdiction to their police forces. The state forces have all been in existence since 1925, the year in which Maine and Rhode Island organized their departments. Of the four states, three are heavily urbanized in population. The average crime rate for murder and non-negligent manslaughter in urban districts reporting to the FBI for 1951-53, is reasonably close for the four states.

TABLE III:—Number of state police killed by lethal weapons in the hands of criminals, for 4 New England states:

State	Killings, 1925-54	All Killings
Connecticut	2	2
Maine	0	0
Massachusetts	1	1
Rhode Island	1	1

Though the two non-death penalty states, as seen in Table II, report less killings, it may be argued that the lower number reflects their smaller population and smaller state police forces and thus that the rate of killings for the death penalty states is not proportionately higher. On the other hand, it cannot be said that this data supports the claim of the proponents of the death penalty as a protection to the police.

The four East North Central states which make up our second group are all relatively populous states which are predominantly urban in population distribution. The crime rate average selected for comparison shows similarity, though the rate for Illinois is somewhat higher than the rates for the other three states. All four states have had state police forces since 1935 and, with the exception of Ohio, grant full jurisdiction to these forces. Michigan is the only non-death penalty state in this group.

TABLE IV:—Number of state police killed by lethal weapons in the hands of criminals, for 4 East North Central States:

State	Killings, 1935-54	All Killings
Illinois	3	6
Indiana	3	3
Michigan	2	5
Ohio	? (a)	1

(a) Report from the Ohio State Highway Patrol did not indicate the date of the single killing reported.

In interpreting the data presented in Table IV, some allowance must be made for the fact that Ohio is the only state in the group limiting the jurisdiction of its force. It may be argued that police work concerned primarily with traffic violations involves less risk of contact with potential killers than work which of its nature brings the police officer into contact with a greater range of criminal activities. The Michigan State Police, for instance, during the Prohibition era were faced with great risk from smugglers operating across the U.S.-Canadian border. This circumstance must be allowed for here, since two out of the five deaths reported by the Michigan State Police were killings by rum runners during the period in which the Volstead Act was in force. In the light of the differences noted, therefore, it would appear misleading, despite the lower number of killings in Ohio, to conclude from a comparison of the Ohio and Michigan reports that greater protection came to the Ohio police simply by reason of the retention of the death penalty in that state. The data from four East North Central states cannot be said to furnish any conclusive support to the claim that the death penalty provides greater protection to the police.

Of the six states making up the third group to be studied further, five are designated by the United States Bureau of the Census as part of the West North Central region; the sixth state, Wisconsin, borders on this region. In contrast with the states of the two previous groups, these states are less populous and generally more rural in population distribution. The crime rates reported for urban areas in these states are uniformly low. Three of the states, Minnesota, North Dakota, and Wisconsin, are non-death penalty states; these states, and Nebraska, restrict the jurisdiction of their state police to highway patrol, or as the report of the Wisconsin force states: "Authority is limited to traffic patrol and enforcement of certain truck regulations, automobile dealer license laws, certain finance laws, and laws governing the regulation of circuses, peddlers and transient merchants." All six states have had state police forces since 1939.

TABLE V:—Number of state police killed by lethal weapons in the hands of criminals, for 6 West North Central states:

State	Killings, 1939-54	All Killings
Iowa	0	1
Minnesota	0	0
Nebraska	2	2
North Dakota	0	0
South Dakota	1	1
Wisconsin	0	0

While it is true that the three non-death penalty states in this group grant only limited jurisdiction to their police, the same holds true for Nebraska. Thus, we cannot disallow the killings reported by the Nebraska Safety Patrol on any grounds of greater exposure to risk from the nature of its work. Study of the data presented in Table V reveals that the record of killings for death penalty and non-death penalty states in this group lends no support to the claim of death penalty proponents.

In summary, therefore, of this section of the study, we conclude that the data available to us after a survey of half the state police forces of the United States do not lend empirical support to the claim that the existence of the death penalty in the statutes of a state provides a greater protection to the police than exists in states where that penalty has been abolished.

* * * *

In view of the negative conclusion drawn from a survey of state police officers killed by criminals, some interest attaches to the question of the extent of police support of the death penalty as a source of protection. How universal

is such support? Does this support vary in some observable relation to actual experience? Through the cooperation of state police respondents some information pertinent to these questions has been gathered in the course of the present study.

Together with a request for completion of the blank described in the first section of this study, the following request was also addressed to the directors of the twenty-seven state police forces:

2. Please give me your personal opinion of the accuracy of the claim made in the opening paragraph of this letter.

The claim, as stated in the letter was: "that the existence of the death penalty in a given state gives the police a certain amount of protection, which would be lost if the death penalty were abolished".

Statements in response to this request were received from eighteen of the twenty-four respondents. No expression of opinion was forthcoming from the responding officials of the Georgia, Illinois, Nebraska, North Dakota, Pennsylvania, and South Dakota state police forces. It will be noted that one of the six, North Dakota, is a non-death penalty state.

Since the request asked for expressions of personal opinion, it has not been possible to classify the responses under exact categories. A study of the opinions expressed, however, furnishes the following summary:

Respondents from eight states, California, Connecticut, Indiana, Iowa, Maryland, New York, Oregon, and Texas, favored the view that the existence of the death penalty provides a certain protection for police officers;

Respondents from three states, Main, Massachusetts, and Wisconsin, rejected the claim;

Respondents from two states, Minnesota and West Virginia, expressed the opinion that the existence of the death penalty probably did not provide greater protection;

Respondents from the remaining five of the eighteen states replying to this request, Michigan, Missouri, Ohio, Rhode Island, and Washington, indicated in their replies that they had no fixed opinion on the claim.

From this summary it can be seen that no one opinion prevails throughout police circles. In some instances, respondents from neighboring states have expressed opposing sentiments on the question of the death penalty as a protection to the police. Though not all replies from the non-death penalty states showed fixed opposition to the claim, explicit replies in favor of the claim were all from states having the death penalty in existence within their jurisdictions.

In conclusion, a brief analysis of the replies from some states will be made by way of a comparison between opinions expressed and the corresponding data on killings reported from the state forces. For this purpose we select three groups within the regional divisions utilized in the first section of this study.

From the New England region, Commissioner John C. Kelly, of the Connecticut State Police, stated:

I personally agree with the supporters of the death penalty that the existence of such a penalty in a given state gives the police a certain amount of protection which would be lost if the penalty were abolished. With the death penalty existing it is only common sense to believe that criminals are less likely to carry lethal weapons for fear that they might be tempted to use them when coming in contact with the police.

On the other hand, from the same area Colonel Robert Marx, Chief of the Maine State Police, replied:

Both the record and experience in this State would indicate that the lack of a death penalty in no way influences the element of protection to the police in this State.

In the neighboring Commonwealth of Massachusetts, Commissioner of Public Safety Otis M. Whitney, is of the view that the existence of the death penalty gives the Public a certain amount of protection, but he adds:

I do not think criminals would be less likely to carry lethal weapons because of the threat of the death penalty, but they might be less likely to use them while committing a crime... They do not give much thought to the possibility that they might be tempted to use them in a brush with the police.

And from a fourth New England state, Colonel John T. Sheehan, Superintendent of the Rhode Island State Police remarked:

Relative to your specific inquiry concerning the comparative values in the retention or abolition of the death penalty, it is my thought that the question is based on the knowledge of laws entertained by the criminal. Since this is such a speculative estimation no conclusive opinion can be formed or expressed.

Over against the opinions thus expressed, we may consider the number of police officers killed in the ranks of the state police forces of this region:

For		Against		No fixed opinion	
Connecticut	2	Maine	0	Rhode Island	1
		Massachusetts	1		

From the states in the East North Central region, we find that Superintendent Frank A. Jessup, of the Indiana State Police, favors the view that the existence of the death penalty gives police a certain amount of protection. In support of his opinion he writes:

During the past twenty years of police experience many criminals have told me that the presence of the death penalty on the Indiana statutes acts as a deterrent in the carrying of firearms. These people were not too concerned over serving time for burglary or larceny, but were concerned in the penalty for shooting a police officer.

Commissioner Joseph A. Childs, of the Michigan State Police, however, presents a somewhat different view on the protective value of the death penalty:

With respect to the protection such a penalty would or does afford police officers, I do not feel as qualified to speak as are chiefs of police in the larger cities where there is more of a concentration of the vicious type of criminal and lethal weapon attacks on police officers are more frequent . . . Our own experience does not provide a broad enough basis for definite conclusions... Granting that the intent of penalty is to deter crime as well as punish it, the death penalty should be the greatest deterrent of all, but this logic is open to many counter arguments and is certainly not supported in its entirety by the records.

A third state in this area, Ohio, has a police force with limited jurisdiction. Colonel George Mingle, Superintendent of the Ohio State Highway Patrol, reports that in discussing the question at issue with members of his staff, he found that they were divided in their opinions. On the matter of criminals carrying lethal weapons, he remarks:—

How often... criminals have been tempted or refrained from using them because Ohio has a capital punishment law, we do not know. There is a limited number of cases where our Patrol officers have been injured by lethal weapons in the hands of criminals. In our more than 21 years

of existence as a law-enforcement agency in this state, we have had one officer murdered. We are not able to say that these results would have been different if this state did not have capital punishment.

Once again, for purposes of comparison, we recall the respective numbers of killings for members of the state police forces and the opinions expressed from these states:—

For		No fixed opinion	
Indiana	3	Michigan	5
		Ohio	1

Just as in the New England region, so we find here that the range of police experience with killings by criminals is wide and police opinion on the death penalty seems to vary independently of any observable relation to this experience.

A final comparison may be made of three states in the West North Central region. In support of the claim for the death penalty is the statement of Chief David Herrick, of the Iowa Highway Safety Patrol:

I am inclined to believe that the existence of the death penalty does give the police a certain amount of protection.

An opposite position on the question is taken by L. E. Beier, Director of Enforcement of the Wisconsin Motor Vehicle Department:

It is my belief that a deterrent effect is not achieved by the retention of the death penalty. It is my further belief that very few criminals take into consideration at the moment when a crime is committed whether or not apprehension would result in the death penalty being imposed.

And from another non-death penalty state in the same region, we find the following statement by E. T. Mattson, Assistant Superintendent of the Bureau of Criminal Apprehension, Department of Highways, Minnesota:

It is our belief that the certainty of apprehension and punishment is the greatest deterrent force in our society today. However, it is doubtful that capital punishment such as the death penalty, is a greater deterring force than punishment in a lesser degree, by imprisonment.

The data on killings of members of the state police for these West North Central states will be recalled:

For		Against	
Iowa	1	Minnesota	0
		Wisconsin	0

It is to be noted that the replies from these states exhibit the same variations in opinion and experience found in the other regions examined.

In summary of this section of the study, then, we may say that the opinions held by police officials on the claim that capital punishment is a source of greater protection to the police, varies widely, though the more common view supports that claim. From our survey of opinions it would seem that the record of killings of police in a particular police force does not of itself determine police opinion for or against the death penalty as a protection. Though most support for the death penalty came from rather populous, urbanized states, having the death penalty on their statutes, and all reporting some killings of officers in their state police forces, we find dissenting opinions held by police officials from states possessed of these same characteristics. Whether grouped with respect to geographical proximity, similarity of crime rates, population distribution, or compared on the basis of numbers of police officers killed, the different states manifested no fixed pattern of opinion among police officials on the value of the death penalty as a protection to the police.

SPECIAL REPORT ON PENNSYLVANIA

The accompanying diagram presents the number of state police officers killed or wounded, by lethal weapons in the hands of sane criminals, during the years 1905-54. Data on killings and woundings are from a report of the Pennsylvania State Police. In the same diagram is indicated the number of criminals executed in the Commonwealth of Pennsylvania for each year in the same period. Data on executions came from the following sources:

For the years 1905 to 1914: *Forty-sixth Annual Report of Board of Commissioners of the Public Charities of the Commonwealth of Pennsylvania for 1915*. Harrisburg, Pa., 1916, p. 78.

For the years 1916 to 1929: from a copy of the records of the State Penitentiary at Rockview, Department of Justice, Commonwealth of Pennsylvania, supplied through the courtesy of Frederick S. Baldi, M.D., Warden.

For the years 1930 to 1952: "Prisoners in State and Federal Institutions," *National Prisoners Statistics*. Washington: Federal Bureau of Prisons, 1954. p. 80.

For the years 1953 to 1954: "Executions in 1954," *National Prisoners Statistics*. Washington; Federal Bureau of Prisons, 1955. p. 2.

A study of the data presented in this diagram shows the following relationships between numbers of executions and numbers of killings or woundings for the same or succeeding years:

Where executions of criminals increased in a given year:
for the same year:

- in 3 instances killings of police increased;
- in 6 instances woundings of police increased.
- in 6 instances killings decreased;
- in 3 instances woundings decreased.
- in 15 instances killings remained the same as the previous year;
- in 15 instances woundings remained same as previous year.

for the succeeding year:

- in 1 instance killings increased;
- in 5 instances woundings increased.
- in 4 instances killings decreased;
- in 7 instances woundings decreased.
- in 19 instances killings remained the same;
- in 12 instances woundings remained the same.

Where executions decreased from the previous year:
for the same year:

- in 3 instances killings increased;
- in 5 instances woundings increased.
- in 2 instances killings decreased;
- in 8 instances woundings decreased.
- in 19 instances killings remained the same;
- in 11 instances woundings remained the same.

for the succeeding year:

- in 4 instances killings increased over previous years;
- in 6 instances woundings increased.
- in 4 instances killings decreased;
- in 4 instances woundings decreased.
- in 16 instances killings remained the same;
- in 14 instances woundings remained the same.

Where executions remained the same as a preceding year:
for the same year:

- in 1 instance killings remained the same;
- in 1 instance woundings remained the same.

From an inspection of these relationships we must conclude that there is no consistent pattern of association between the number of criminals executed in Pennsylvania and the killing or woundings of members of the state police in that state.

PENNSYLVANIA: KILLINGS AND WOUNDINGS OF STATE
POLICE OFFICERS AND EXECUTIONS OF CRIMINALS
1905 to 1954

